Vol. I 66

CLASS 372 BOOK S154

NORTH-WESTERN COLLEGE
...LIBRARY...

Accession No 13500 Date Jan. 1914

Given by Schoedinger Memorial

E. B. E. Librarian.

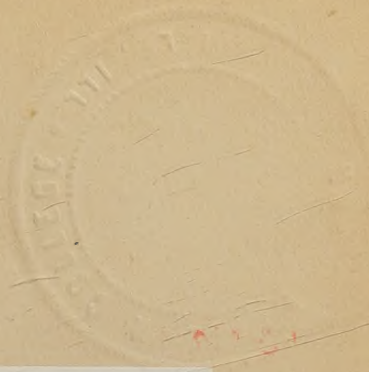
13500

SHOEDINGER ALCOVE

NORTHWESTERN COLLEGE
NAPERVILLE, ILL.

R

13500



DATE DUE

GAYLORD			PRINTED IN U.S.A.

CLASS
NOR
Accessio
Given b
SHOE
NORTH

13308

MODERN CONSTITUTIONS

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILLINOIS

Agents

THE BAKER & TAYLOR COMPANY
NEW YORK

THE CAMBRIDGE UNIVERSITY PRESS
LONDON AND EDINBURGH

MODERN CONSTITUTIONS

A Collection of the Fundamental Laws of Twenty-two of the Most Important Countries of the World, with Historical and Bibliographical Notes

By
WALTER FAIRLEIGH DODD

VOLUME I

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILLINOIS

Copyright 1908 By
The University of Chicago

All rights reserved

Published January 1909
Second Impression March 1912

Composed and Printed by
The University of Chicago Press
Chicago, Illinois, U.S.A.

13500

42.01
D66m
v.1

PREFACE

The study of comparative constitutional law deservedly occupies an important position in the colleges and universities of the United States. The extensive use of the works of Wilson, Burgess, Goodnow, and Lowell attests the general and growing interest in this field. Although constitutions in no case represent the complete political organization of a state, they may, with convenience, be made the basis of study; they furnish the best framework about which the student may complete his knowledge of governmental organization. It is the purpose of this collection to furnish constitutional texts for use in courses on the subject of comparative constitutional law; although this is its primary object, it is hoped that the work may also be of use to lawyers and public men.

In view of the main purpose of this collection only the most important constitutions have been included. The constitutions of Portugal and Denmark may be considered of less importance than the others, but it has been thought well to include them. Great Britain is excluded because English national institutions are only to a small extent embodied in constitutional documents, and these documents are readily accessible to American students. Because of its easy accessibility in other publications, the United States constitution might well have been excluded from a collection intended largely for American students, but it may be of convenience to students in other English-speaking countries.

Much has been written about the desirability of a student's using documents in the original language, but whatever may be the theoretical basis for this position, it remains true that even an advanced student cannot be expected to know all of the languages of the original constitutions. The editor thinks that if sufficient care be taken material from any language may be translated into clear and intelligible English, without a wide departure from the original. Each text here printed has, after translation, been submitted to a competent person for careful

revision. In so far as possible the constitutions have been rendered into the technical language of political science. Translations may easily be criticized, and it is not expected that those here given will escape criticism, but care has been taken in each case to obtain accuracy and clearness.

The attempt has been made to give the constitutions as in force at the end of the year 1906; in the case of Austria, however, it has been possible to give the text of the constitutional amendments of January 26, 1907, and notes have been inserted of more recent changes of electoral qualifications in Norway, Spain, Sweden, and Russia. In fact notes have been made of all constitutional changes known to have taken place during 1907. In many cases it is difficult to discover when constitutional changes are made, but all available sources of information have been used, and it is believed that no recent amendments have been missed.

Notes to the constitutions have been given sparingly, and have been confined almost entirely to information regarding amendments, to election laws, and to other matters absolutely necessary for the understanding of the text. For the historical introductions it may perhaps be possible to claim only the merit of brevity; they do not, and, within the limits necessary for them, could not furnish the historical foundation necessary for the understanding of existing constitutions; they may serve to refresh the memory of those who have already had adequate historical training.

In the bibliographies critical lists have been given of the most important authorities. It is fully realized that the standard of importance is largely a relative one, and that the selection of titles may be open to criticism. In some cases the bibliographies are confessedly incomplete because the editor has been unable to obtain information regarding the constitutional literature; this is especially true with respect to Russia, Portugal, Brazil, and Chile. For certain countries it is easily possible to name one or more books as the most important, but for Switzerland, France, Germany, the United States, and for certain other countries one must choose from such a mass of important literature that a select list of references will always be open to just criticism.

However, a select bibliography, although open to objections, is of more value than an indiscriminate list of books.

In the revision of the translations assistance has been received from many friends. Acknowledgments are especially due to the following gentlemen: Mr. C. K. Jones, of the Library of Congress, and Mr. James A. Robertson, of Madison, Wisconsin, for the revision of the translations from the Spanish language; Mr. S. Gurgel do Amaral, First Secretary of the Brazilian Embassy at Washington, for revision of the Brazilian and Portuguese constitutions; Mr. J. Dieserud, of the Library of Congress, for assistance in the translation and revision of the constitutions of Denmark, Norway, and Sweden; Mr. A. Fanti, for the revision of the Italian constitution; and Dr. W. F. Koenig, for the revision of the constitution of the Netherlands. These gentlemen and others are in large part responsible for any merit which this work may possess. The editor assumes full responsibility for all errors.

W. F. Dodd

Washington, D. C.
May 23, 1908

NOTE

Wherever possible brackets [] have been used to indicate additions made to the texts of constitutions by means of amendments. The parentheses ( ) have been used infrequently, either to inclose clauses or phrases which are placed within the parentheses in the original text, or to inclose a word from the original language when it is thought proper to give such a word in the text of the translation.

13500

TABLE OF CONTENTS

VOLUME I

PAGE

GENERAL BIBLIOGRAPHY xix

ARGENTINE NATION 1

Declarations, Rights, and Guaranties (Arts. 1–35)
The Federal Government
The Legislative Power (Art. 36)
The House of Deputies (Arts. 37–45)
The Senate (Arts. 46–54)
Provisions Common to Both Houses (Arts. 55–66)
Powers of Congress (Art. 67)
Enactment and Approval of Laws (Arts. 68–73)
The Executive Power
Its Nature and Duration (Arts. 74–80)
Manner and Time of Electing the President and Vice-President of the Nation (Arts. 81–85)
Powers of the Executive (Art. 86)
The Ministers of the Executive Power (Arts. 87–93)
The Judicial Power
Its Nature and Duration (Arts. 94–99)
Functions of the Judicial Power (Arts. 100–103)
Provincial Governments (Arts. 104–10)

AUSTRALIA 31

The Parliament
General (Secs. 1–6)
The Senate (Secs. 7–23)
The House of Representatives (Secs. 24–40)
Both Houses of Parliament (Secs. 41–50)
Powers of the Parliament (Secs. 51–60)
The Executive Government (Secs. 61–70)
The Judicature (Secs. 71–80)
Finance and Trade (Secs. 81–105)
The States (Secs. 106–20)
New States (Secs. 121–24)
Miscellaneous (Secs. 125–27)
Alteration of the Constitution (Sec 128)

AUSTRIA 69

Fundamental Law Concerning the General Rights of Citizens (December 21, 1867)
Fundamental Law Concerning Imperial Representation (December, 21, 1867)

PAGE

Fundamental Law Concerning the Establishment of an Imperial Court (December 21, 1867)
Fundamental Law Concerning the Judicial Power (December, 21, 1867)
Fundamental Law Concerning the Exercise of Administrative and Executive Power (December 21, 1867)

HUNGARY 91
Law 3 of 1848 Concerning the Formation of a Responsible Hungarian Ministry
Law 4 of 1848 Concerning Annual Sessions of the Diet
Law 7 of 1885 Altering the Organization of the Table of Magnates
Law 5 of 1848 Concerning the Election of Representatives
Law 33 of 1874 Regulating the Election of Members of the House of Representatives

AUSTRIA-HUNGARY 113
Law Concerning the Affairs Common to All of the Countries of the Austrian Monarchy, and the Manner of Managing Them (December 21, 1867)
Law Concerning the Administration of Bosnia and Herzegovina (February 22, 1880)

BELGIUM 125
The Territory and Its Divisions (Arts. 1–3)
Belgian Citizens and Their Rights (Arts. 4–24)
Concerning Powers (Arts. 25–31)
The Houses (Arts. 32–46)
The House of Representatives (Arts. 47–52)
The Senate (Arts. 53–59)
The King and the Ministers
The King (Arts. 60–85)
The Ministers (Arts. 86–91)
The Judicial Power (Arts. 92–107)
Provincial and Communal Institutions (Arts. 108, 109)
Finances (Arts. 110–17)
The Army (Arts. 118–24)
General Provisions (Arts. 125–30)
The Revision of the Constitution (Art. 131)
Temporary Provisions (Arts. 132–38)
Supplementary Provision (Art. 139)

BRAZIL 149
The Federal Organization
Preliminary Provisions (Arts. 1–15)

PAGE

The Legislative Power
General Provisions (Arts. 16–27)
The House of Deputies (Arts. 28, 29)
The Senate (Arts. 30–33)
Powers of the Congress (Arts. 34, 35)
Laws and Resolutions (Arts. 36–40)
The Executive Power
The President and Vice-President (Arts. 41–46)
Election of President and Vice-President (Art. 47)
The Powers of the Executive (Art. 48)
Ministers of State (Arts. 49–52)
The Responsibility of the President (Arts. 53, 54)
The Judicial Power (Arts. 55–62)
The States (Arts. 63–67)
The Municipality (Art. 68)
Brazilian Citizens
Qualifications of Brazilian Citizenship (Arts. 69–71)
Declaration of Rights (Arts. 72–78)
General Provisions (Arts. 79–91)
Temporary Provisions

CANADA 183
British North America Act, 1867
Preliminary (1, 2)
Union (3–8)
Executive Power (9–16)
Legislative Power (17–20)
The Senate (21–36)
The House of Commons (37–52)
Money Votes; Royal Assent (53–57)
Provincial Constitutions
Executive Power (58–68)
Legislative Power
Ontario (69, 70)
Quebec (71–80)
Ontario and Quebec (81–87
Nova Scotia and New Brunswick (88)
Ontario, Quebec, and Nova Scotia (89)
The Four Provinces (90)
Distribution of Legislative Powers
Powers of the Parliament (91)
Exclusive Powers of Provincial Legislatures (92)
Education (93)
Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick (94)
Agriculture and Immigration (95)

PAGE

Judicature (96–101)
Revenues; Debts; Assets; Taxation (102–26)
Miscellaneous Provisions
General (127–33)
Ontario and Quebec (134–44)
Intercolonial Railway (145)
Admission of Other Colonies (146, 147)
British North America Act, 1871
Parliament of Canada Act, 1875
British North America Act, 1886

CHILE 227
The Form of Government (Arts. 1–3)
Religion (Art. 4)
Chileans (Arts. 5–9)
Public Rights of Chile (Art. 10)
The National Congress (Arts. 11–15)
The House of Deputies (Arts. 16–21)
The Senate (Arts. 22–26)
Powers of Congress and Special Powers of Each House (Arts. 27–30)
The Enactment of Laws (Arts. 31–42)
The Sessions of Congress (Arts. 43–47)
The Executive Committee (Comision Conservadora) (Arts. 48, 49)
The President of the Republic (Arts. 50–74)
The Ministers of State (Arts. 75–92)
The Council of State (Arts. 93–98)
The Administration of Justice (Arts. 99–105)
Internal Government and Administration (Art. 106)
The Intendants (Art. 107)
The Governors (Arts. 108–10)
The Subdelegates (Art. 111)
The Inspectors (Art. 112)
The Municipalities (Arts. 113–22)
Guaranties of Security and Property (Arts. 123–43)
General Provisions (Arts. 144–53)
The Observance and Amendment of the Constitution (Arts. 154–59)
Temporary Article

DENMARK 265
Form of Government and Religion (Arts 1–3)
The King and the Royal Family (Arts. 4–10)
The Executive Power (Arts. 11–28)
The Rigsdag (Arts. 29–40)
The Folkething (Arts. 30–33)
The Landsthing (Arts. 34–40)

PAGE

Organization and Powers of the Rigsdag (Arts. 41–67)
The Judicial Power (Arts. 68–74)
The National Church and Religious Liberty (Arts. 75–79)
Rights of Citizens (Arts. 80–94)
Amendment of the Constitution (Art. 95)
Temporary Provisions

FRANCE 283
Constitutional Law on the Organization of the Public Powers (February 25, 1875)
Constitutional Law on the Organization of the Senate (February 24, 1875)
Constitutional Law on the Relations of the Public Powers (July 16, 1875)
Constitutional Law Revising Article 9 of the Constitutional Law of February 25, 1875 (June 19, 1879)
Constitutional Law Partially Revising the Constitutional Laws (August 13, 1884)
Organic Law on the Election of Senators (August 2, 1875)
Organic Law on the Election of Deputies (November 30, 1875)
Law Relating to the Seat of the Executive Power and of the Two Chambers at Paris (July 22, 1879)
Law Amending the Organic Laws on the Organization of the Senate and the Election of Senators (December 9, 1884)
Law Amending the Electoral Law (June 16, 1885)
Law on Parliamentary Incompatibilities (December 26, 1887)
Law Re-establishing Single Districts for the Election of Deputies (February 13, 1889)
Law on Multiple Candidatures (July 17, 1889)

GERMANY 321
Federal Territory (Art. 1)
Legislation of the Empire (Arts. 2–5)
The Bundesrat (Arts. 6–10)
The Presidency (Arts. 11–19)
The Reichstag (Arts. 20–32)
Customs and Commerce (Arts. 33–40)
Railways (Arts. 41–47)
Post and Telegraph (Arts. 48–52)
Marine and Navigation (Arts. 53–55)
Consular Affairs (Art. 56)
Military Affairs of the Empire (Arts. 57–68)
Finances of the Empire (Arts. 69–73)
Settlement of Disputes and Penal Provisions (Arts. 74–77)
Amendments (Art. 78)

13500

TABLE OF CONTENTS

VOLUME II

PAGE

ITALY 1
Religion (Art. 1)
The King and the Royal Power (Arts. 2–23)
The Rights and Duties of Citizens (Arts. 24–32)
The Senate (Arts. 33–38)
The House of Deputies (Arts. 39–47)
Provisions Common to Both Houses (Arts. 48–64)
The Ministers (Arts. 65–67)
The Judiciary (Arts. 68–73)
General Provisions (Arts. 74–81)
Transitory Provisions (Arts. 82–84)
Law of the Papal Guaranties
Prerogatives of the Supreme Pontiff and of the Holy See (Arts. 1–13)
Relation of the State to the Church (Arts. 14–19)

JAPAN 23
The Emperor (Arts. 1–17)
Rights and Duties of Subjects (Arts. 18–32)
The Imperial Diet (Arts. 33–54)
The Ministers of State and the Privy Council (Arts. 55, 56)
The Judicial Power (Arts. 57–61)
Finance (Arts. 62–72)
Supplementary Rules (Arts. 73–76)
Imperial Ordinance Concerning the House of Peers

MEXICO 37
The Rights of Man (Arts. 1–29)
Mexicans (Arts. 30–32)
Foreigners (Art. 33)
Mexican Citizens (Arts. 34–38)
National Sovereignty and the Form of Government (Arts. 39–41)
Integral Parts of the Nation and of the National Territory (Arts. 42–49)
Division of Powers (Art. 50)
Legislative Power (Art. 51)
Election and Installation of Congress (Arts. 52–64)
Initiation and Enactment of Laws (Arts. 65–71)
The Powers of Congress (Art. 72)
The Permanent Committee (Arts. 73, 74)

PAGE

The Executive Power (Arts. 75–89)
The Judicial Power (Arts. 90–102)
Responsibility of the Public Functionaries (Arts. 103–8)
States of the Federation (Arts. 109–16)
General Provisions (Arts. 117–26)
Amendment of the Constitution (Art. 127)
Inviolability of the Constitution (Art. 128)
Temporary Provision
Additions to Constitution, September 25, 1873 (Arts. 1–4)

NETHERLANDS 79
The Kingdom and Its Inhabitants (Arts. 1–9)
The King
The Succession to the Throne (Arts. 10–23)
The Revenue of the Crown (Arts. 24–30)
Guardianship of the King (Arts. 31–35)
The Regency (Arts. 36–50)
The Installation of the King (Arts. 51–53)
The Powers of the King (Arts. 54–73)
The Council of State and the Ministerial Departments (Arts. 74–77)
The States-General
Composition of the States-General (Arts. 78–83)
The Lower House of the States-General (Arts. 84–89)
The Upper House of the States-General (Arts. 90–92)
Provisions Common to Both Houses (Arts. 93–108)
The Legislative Power (Arts. 109–22)
The Budget (Arts. 123–26)
The Provincial Estates and the Communal Governments
Composition of the Provincial Estates (Arts. 127–32)
The Powers of the Provincial Estates (Arts. 133–41)
The Communal Governments (Arts. 142–48)
Justice
General Provisions (Arts. 149–61)
The Courts (Arts. 162–66)
Religious Worship (Arts. 167–73)
Finances (Arts. 174–79)
Defense (Arts. 180–87)
Waterstaat (Arts. 188–91)
Public Instruction and the Relief of the Poor (Arts. 192, 193)
Amendments (Arts. 194–97)
Additional Articles

NORWAY 121
Form of Government and Religion (Arts. 1, 2)

PAGE

The Executive Power, the King, and the Royal Family (Arts. 3–48)
Citizenship and the Legislative Power (Arts. 49–85)
The Judicial Power (Arts. 86–91)
General Provisions (Arts. 92–112)

PORTUGAL 145
The Kingdom of Portugal, Its Territory, Government, Dynasty, and Religion (Arts. 1–6)
Portuguese Citizens (Arts. 7–9)
The Powers and the National Representation (Arts. 10–12)
The Legislative Power
The Divisions of the Legislative Power, and Their Powers (Arts. 13–33)
The House of Deputies (Arts. 34–38)
The House of Peers (Arts. 39–44)
The Initiation, Discussion, Approval, and Promulgation of Laws (Arts. 45–62)
The Elections (Arts. 63–70)
The King
The Moderative Power (Arts. 71–74)
The Executive Power (Arts. 75–77)
The Royal Family and Its Revenue (Arts. 78–85)
The Succession to the Throne (Arts. 86–90)
The Regency during the Minority or Incapacity of the King (Arts. 91–100)
The Ministry (Arts. 101–6)
The Council of State (Arts. 107–12)
The Military Force (Arts. 113–17)
The Judicial Power
The Judges and the Courts of Justice (Arts. 118–31)
The Administration and the Government of the Provinces
The Administration (Art. 132)
The Communal Councils (Arts. 133–35)
The Public Revenue (Arts. 136–38)
General Provisions, and Guaranties of the Civil and Political Rights of Portuguese Citizens (Arts. 139–45)

RUSSIA 181
The Nature of the Supreme Autocratic Power (4–26)
The Rights and Duties of Russian Subjects (27–41)
The Laws (42–55)
The Council of the Empire, the Imperial Duma, and the Course of Their Activity (56–77)
The Council of Ministers, the Ministers, and the Heads of Independent Institutions (78–82)

PAGE

SPAIN 197
Spaniards and Their Rights (Arts. 1–17)
The Cortes (Arts. 18, 19)
The Senate (Arts. 20–26)
The Congress of Deputies (Arts. 27–31)
The Meetings and Powers of the Cortes (Arts. 32–47)
The King and His Ministers (Arts. 48–58)
The Succession to the Throne (Arts. 59–65)
The Minority of the King and the Regency (Arts. 66–73)
The Administration of Justice (Arts. 74–81)
The Provincial Deputations and the Municipal Councils (Arts. 82–84)
Taxation (Arts. 85–87)
The Military Forces (Art. 88)
The Government of the Colonies (Art. 89)

SWEDEN 217
The King and the Council of State (Arts. 1–15)
Judicial Affairs (Arts. 16–27)
The Executive Power and Its Exercise (Arts. 28–48)
The Riksdag, Its Organization and Powers (Arts. 49–80)
Fundamental Laws and Their Amendment (Arts. 81–86)
Enactment and Interpretation of Laws (Arts. 87–90)
Temporary Vacancy of the Throne, Failure of Succession, and the Regency (Arts. 91–95)
Solicitor-General of the Riksdag (Arts. 96–100)
Official Responsibility and Impeachment (Arts. 101–7)
Liberty of the Press (Art. 108)
Meetings of the Riksdag, and Privileges of Its Members and Officers (Arts. 109–13)
Privileges of the Estates (Art. 114)

SWITZERLAND 253
General Provisions (Arts. 1–70)
Federal Authorities
Federal Assembly (Art. 71)
National Council (Arts. 72–79)
Council of States (Arts. 80–83)
Powers of the Federal Assembly (Arts. 84–94)
Federal Council (Arts. 95–104)
Federal Chancellery (Art. 105)
Federal Court (Arts. 106–14)
Miscellaneous Provisions (Arts. 115–17)
Amendment of the Federal Constitution (Arts. 118–23)
Temporary Provisions

PAGE

UNITED STATES 291

Legislative Power (Art. 1)
Executive Power (Art. 2)
Judicial Power (Art. 3)
The States and Their Relations (Art. 4)
Amendment (Art. 5)
General Provisions (Art. 6)
Ratification (Art. 7)
Amendments I–XV

INDEX 313

13500

GENERAL BIBLIOGRAPHY[1]

I. HISTORICAL WORKS

A general knowledge of the history of the nineteenth century is necessary for the proper study of comparative constitutional law. Of the general histories of this period the following are the most satisfactory for this purpose:

FYFFE, C. A. *A History of Modern Europe, 1792–1878.* Popular edition. (New York, 1896.) The best work for the period covered.

SEIGNOBOS, CHARLES. *A Political History of Europe since 1814.* Translation edited by S. M. Macvane. (New York, 1899.) Especially useful because of its separate treatment of the recent history of each country.

PHILLIPS, W. ALLISON. *Modern Europe, 1815–1899.* (London, 1901.) A good brief work.

ANDREWS, CHARLES M. *The Historical Development of Modern Europe from the Congress of Vienna to the Present Time.* (New York, 1896–98. 2 vols.) An excellent work, but a series of essays, not a complete history.

AKERS, CHARLES EDMOND. *A History of South America, 1854–1904.* (London, 1904.) The only satisfactory account of recent South American history; it contains a brief sketch of the history before 1854.

II. TEXTS OF CONSTITUTIONS

DARESTE, F. R. *Les constitutions modernes: Recueil des constitutions en vigueur dans les divers états d'Europe, d'Amérique et du monde civilisé.* (2. éd. Paris, 1891. 2 vols.) The best general collection although now somewhat out of date. A third edition is in preparation.

RODRIGUEZ, JOSÉ IGNACIO. *American Constitutions.* (International Bureau of the American Republics. Washington, 1906–7. Vols. I and II.) A collection of the constitutions of all independent countries of North and South America. The constitutions are printed in the

[1] This general bibliography excludes all reference to the constitutional law of England and the United States, except in so far as English and American institutions are discussed in general works.

original language and in English translation; the Brazilian and Haitian constitutions in the original language and in English and Spanish translations. Unfortunately some of the English translation is inaccurately done, and certain of the constitutions have not been revised to the date of publication. The collection is, however, a necessary work for the study of Latin-American constitutions.

CARRANZA, ARTURO B. *Digesto constitucional Americano.* (Buenos Aires, 1900–1. 2 vols.) A convenient collection of Spanish-American constitutions.

MOREAU, FÉLIX ET DELPECH, JOSEPH. *Les réglements des assemblées législatives.* (Paris, 1906–7. 2 vols.) A collection of parliamentary rules and orders of the most important countries. Of countries outside of Europe only the United States is included.

III. GENERAL WORKS UPON COMPARATIVE CONSTITUTIONAL LAW

Handbuch des oeffentlichen Rechts der Gegenwart. Begrundet von Heinrich von Marquardsen. Herausgegeben von Max von Seydel und Robert Piloty. (Freiburg, Tübingen, 1883–1906.) The most important collection of works upon the constitutional law of the countries of Europe. Many of the monographs contained in this work have been entered in the separate country bibliographies. Although nominally in four volumes the collection is subdivided into *Halbbände* and *Teile* after the manner of the Germans. What is practically a new edition of the *Handbuch* has recently been announced by the same publisher, J. C. B. Mohr (Paul Siebeck) of Tübingen, under the title of *Das oeffentliche Recht der Gegenwart.* An important feature of the new publication is the *Jahrbuch des oeffentlichen Rechts,* the first volume of which appeared in 1907; this *Jahrbuch* will contain important papers, information of new laws in the field of public law, and notes upon the important literature of this subject.

BURGESS, JOHN W. *Political Science and Comparative Constitutional Law.* (Boston, 1902. 2 vols. A reissue of the edition of 1890–91.) One of the most important works; it is devoted to a study of the governments of the United States, England, France, and Germany.

GOODNOW, FRANK J. *Comparative Administrative Law.* An analysis of the administrative systems, national and local, of the United States, England, France, and Germany. (Students' ed. New York, 1903. A reissue of the edition of 1893.) An excellent work, which complements the volumes of Burgess.

LOWELL, A. LAWRENCE. *Governments and Parties in Continental Europe.* (Boston, 1896. 2 vols.) Excellent studies of the structure and operation of the governments of France, Italy, Germany, Austria-Hungary, and Switzerland.

WILSON, WOODROW. *The State: Elements of Historical and Practical Politics.* (Revised ed. Boston, 1898.) A fairly satisfactory text-book. For France, Germany, Switzerland, and Austria-Hungary Lowell's discussion is better.

DUPRIEZ, LÉON. *Les ministres dans les principaux pays d'Europe et d'Amérique.* (3. éd. Paris, 1892–93. 2 vols.) One of the most important works in the field of comparative constitutional law.

LE FUR, LOUIS. *État fédéral et confédération d'états.* (Paris, 1896.) A fairly satisfactory comparative study of confederations and federal states. A German edition has been issued of the first part of this work: LE FUR, LOUIS UND POSENER, PAUL. *Bundesstaat und Staatenbund.* Erster Band: "Bundesstaat und Staatenbund in geschichtlicher Entwickelung." (Breslau, 1902.)

BOUTMY, ÉMILE. *Studies in Constitutional Law: France—England—United States.* Translated from the French by E. M. Dicey. (London, 1891.) There is a fourth French edition of 1903.

BRYCE, JAMES. *Studies in History and Jurisprudence.* (London [1901].) Six of these studies relate to constitutional matters and are of great value. They have been reprinted in a separate volume under the title *Constitutions.*

AROSEMENA, JUSTO. *Estudios constitucionales sobre los gobiernos de la América Latina.* (Nueva ed. Paris, 1888. 2 vols.) The only work in its field. It contains texts of the constitutions, many of which have now been superseded, but is still valuable for its historical and critical commentaries.

ASHLEY, PERCY. *Local and Central Government: A Comparative Study of England, France, Prussia, and the United States.* (London, 1906.) Contains little which may not be found better in Goodnow.

FLANDIN, ETIENNE. *Institutions politiques de l'Europe contemporaine.* (Paris, 1901–5. Vols. I–III.) Brief studies of the governments of England, Belgium, Germany, Switzerland, and Italy. A second edition of Vol. I was issued in 1907.

HART, ALBERT BUSHNELL. *Introduction to the Study of Federal Government.* (Boston, 1891.) Suggestive for the comparative study of federal states. A more recent work of a similar character is Pro-

fessor George Elliott Howard's *Comparative Federal Institutions*, a syllabus published in 1907 for use in the University of Nebraska.

IV. IMPORTANT WORKS ON SPECIAL SUBJECTS

BORGEAUD, CHARLES. *Adoption and Amendment of Constitutions in Europe and America.* Translated by Charles D. Hazen. (New York, 1895.) An interesting and important book.

SHAW, ALBERT. *Municipal Government in Continental Europe.* (New York, 1895.) As yet this is the best work in English upon its subject. Reference should, however, be made to a work which has been announced to appear in 1908: MUNRO, W. B. *The European City.*

PYFFEROEN, OSCAR. *L'Électorat politique et administratif en Europe.* (Paris, 1903.) A brief account of the electoral systems of European countries.

MEYER, GEORG. *Das parlamentarische Wahlrecht.* (Berlin, 1901.) Principally a history of the electoral franchise in Europe in the nineteenth century.

LEFÉVRE-PONTALIS. *Les élections en Europe à la fin du XIX^e^ siècle.* (Paris, 1902.) A study of electoral qualifications and electoral procedure in France, England, Germany, Austria, Hungary, Belgium, Spain, Greece, Italy, Netherlands, and Switzerland.

V. SUGGESTIONS FOR A SMALL LIBRARY OF COMPARATIVE CONSTITUTIONAL LAW

BURGESS, JOHN W. *Political Science and Comparative Constitutional Law.* (Boston, 1902. 2 vols.)

LOWELL, A. LAWRENCE. *Governments and Parties in Continental Europe.* (Boston, 1896. 2 vols.)

WILSON, WOODROW. *The State: Elements of Historical and Practical Politics.* (Revised edition, Boston, 1898.)

DUPRIEZ, LÉON. *Les ministres dans les principaux pays d'Europe et d'Amérique.* (3. éd. Paris, 1892–93. 2 vols.)

GOODNOW, FRANK J. *Comparative Administrative Law.* (Students' ed. New York, 1903.)

BODLEY, J. E. C. *France.* (New York, 1898. 2 vols.)

HOWARD, B. E. *The German Empire.* (New York, 1906.)

VINCENT, J. M. *Government in Switzerland.* (New York, 1900.)

Moore, W. Harrison. *The Constitution of the Commonwealth of Australia.* (London, 1902.)

Bourinot, J. G. *How Canada Is Governed.* (5th ed. Toronto, 1902.)

After these works should come the *Handbuch des oeffentlichen Rechts der Gegenwart,* and the more important separate treatises, as Esmein for France, Laband for Germany, and Blumer for Switzerland.

13500

THE ARGENTINE NATION

On May 25, 1810, the first revolutionary junta was organized in the city of Buenos Aires. The Spanish viceroy, Baltasar Hidalgo de Cisneros, was deprived of power and the revolutionary forces soon gained complete control of the country; independence of Spain was formally declared on July 9, 1816, but Spanish control had practically ceased in 1810 and war with the Spanish forces terminated in 1814.

From the date when the Argentine territory separated from Spain until 1860, the struggle between federalists and unitarians was the principal feature of Argentine political life. In 1815 a provisional statute or constitution was issued in which strong federalist tendencies predominated; this was superseded in 1817 by another provisional constitution which was more favorable to a unitary government; in 1819 still another constitution was issued, which pleased neither party. From 1820 to 1825 there was no central government; each province conducted its affairs independently, but only in Buenos Aires was there a stable government. In 1825 a constitutional convention agreed upon the principle that the provinces should remain united but should be governed by their own laws until a new constitution should be adopted. This convention in 1826 adopted a constitution which was rejected by the provinces, and their union was declared to be at an end.

From 1829 to 1851 the country was practically under the dictatorship of Rosas, the leader of the federalists; the federal form of government was preserved upon the principle announced in 1825, but the rights of the provinces were not always respected.

Numerous insurrections against Rosas were suppressed, but finally the unitary forces succeeded in winning over Rosas' leading general; Rosas was defeated and forced to leave Argentine territory in 1852. Urquiza, who had defeated Rosas and who for a while succeeded to his power, was in reality a federalist, and the province of Buenos Aires, the center of unitary strength, soon rebelled from his authority. Attempts to subdue this

province failed. On May 1, 1853, the other provinces, thirteen in number, adopted a federal constitution. The effort to bring Buenos Aires into this federal union was not given up. In 1859 war broke out between Buenos Aires and the Confederation; Buenos Aires was defeated and by treaty of November 11, 1859, became a federal province. In 1860 a constitutional convention met at Santa Fé, and an amended constitution of the Argentine Nation was adopted on September 25, 1860. This constitution, which has received two slight amendments, is still in force.

SELECT BIBLIOGRAPHY

CARRANZA, ARTURO B. *Digesto constitucional Argentino.* (3d ed. Buenos Aires, 1905.) An excellent collection of the federal and provincial constitutions now in force.

VEDIA, AUGUSTÍN DE. *Constitución Argentina.* (Buenos Aires, 1907.) The latest and perhaps now the best treatise; important for its use of decisions of the United States Supreme Court.

GONZÁLEZ, JOAQUÍN V. *Manual de la constitución Argentina.* (Buenos Aires, 1897.) One of the most important books.

ALBERDI, JUAN BAUTISTA. *Organizacion de la Confederación Argentina.* (Nueva ed. Besanzon, 1858. 2 vols.)

SARMIENTO, D. F. *Comentarios de la constitución de la confederación Arjentina.* (Santiago de Chile, 1853.) A commentary written by one of the framers of the constitution. Sarmiento bases his work largely upon Story's *Commentaries on the Constitution of the United States.* Alberdi, however, denies the applicability of precedents drawn from the United States, and asserts that the Argentine constitution was not copied from that of the United States.

SALDIAS, ADOLFO. *Ensayo sobre la historia de la constitución Argentina.* (Buenos Aires, 1878.) An excellent sketch of Argentine constitutional history.

CONSTITUTION OF THE ARGENTINE NATION[1]

(September 25, 1860)

We, the representatives of the people of the Argentine Nation, assembled in general constitutional convention by the

[1] In the preparation of this translation assistance was received from the translation issued by Miss Elizabeth Wallace (Chicago, 1894), and from that published in Rodriguez, *American Constitutions,* Vol. I (Washington, 1906).

will and election of the provinces of which it is composed, in pursuance of previous agreements, for the purpose of constituting the National Union, of establishing justice, of insuring domestic peace, of providing for the common defense, of promoting the general welfare, and of securing the benefits of liberty to ourselves, our posterity, and to all persons who may desire to inhabit the Argentine soil, invoking the protection of God, the source of all reason and justice, do hereby ordain, decree, and establish this constitution for the Argentine Nation.

PART FIRST

CHAPTER I. DECLARATIONS, RIGHTS, AND GUARANTIES

ARTICLE 1. The Argentine Nation adopts for its government the federal republican representative form, as established by this constitution.

ART. 2. The federal government supports the Roman Catholic apostolic religion.

ART. 3. The authorities exercising the functions of the federal government shall reside in the city which shall be declared by special act of Congress to be the capital of the republic, a previous cession of the territory which shall become federal being made by one or more of the provincial legislatures.[2]

ART. 4. The federal government shall defray the expenses of the nation with the funds of the national treasury, consisting of: receipts from import and export duties;[3] proceeds of the sale or lease of national lands; revenues of the postal service; taxes levied by the general Congress equitably and in proportion to the population; and moneys obtained

[2] A law promulgated September 21, 1880, established the national capital in the city of Buenos Aires, ceded by the legislature of the state of the same name.

[3] This article and clause 1 of Art. 67 as originally worded forbade the levying of export taxes after 1866. This limitation was striken out by amendments of September 12, 1866.

through loans and financial operations decreed by said Congress for national urgencies, or for works of national utility.

ART. 5. Each province shall adopt its own constitution which shall provide for the administration of justice in its own territory, its municipal system, and primary instruction, such constitution to be framed upon the republican representative plan, in harmony with the principles, declarations, and guaranties of the national constitution. Upon these conditions, the federal government shall guarantee to each province the enjoyment and exercise of its institutions.

ART. 6. The federal government shall have the right to intervene in the territory of the provinces in order to guarantee the republican form of government or to repel foreign invasion; and when requested by the constituted authorities, to maintain them in power, or to re-establish them if they shall have been deposed by sedition or by invasion from another province.

ART. 7. Full credit shall be given in each province to the public acts and judicial proceedings of all other provinces; and Congress shall have the power to provide by general laws how such acts and proceedings shall be proved, and what legal effect they shall have.

ART. 8. The citizens of each province shall enjoy in all the others the rights, privileges, and immunities belonging to the citizens of such other provinces. The extradition of criminals is reciprocally obligatory on all the provinces.

ART. 9. All custom-houses in the territory of the nation shall be national, and governed by the tariff laws enacted by Congress.

ART. 10. The circulation within the territory of the republic of articles of domestic production or manufacture and of all classes of goods and merchandise cleared at the custom-houses shall be free from taxation.

ART. 11. Articles of national or foreign production or manufacture, and cattle of all kinds, when passing from the

territory of one province into that of another, shall be exempt from transit duties. The same freedom shall also be enjoyed by the carriages, vessels, or animals used for their transportation, and no other duty, whatever its name may be, shall hereafter be imposed upon such articles and vehicles during their transit through the territory.

ART. 12. Vessels bound from one province to another shall not be compelled to enter, cast anchor, or pay duties on account of transit; and in no case shall any preference be given to one port over another, by means of commercial laws or regulations.

ART. 13. New provinces may be admitted into the nation, but no province shall be erected within the territory of another, nor shall two or more provinces be consolidated into one, without the consent of the legislatures of the interested provinces and of Congress.

ART. 14. All the inhabitants of the nation shall enjoy, subject to the laws regulating their exercise, the following rights, to wit: to work and engage in any lawful industry; to navigate and engage in commerce; to petition the authorities; to enter, remain in, travel through, or leave the Argentine territory; to publish their ideas through the press without previous censorship; to use and dispose of their property; to associate together for useful purposes; freely to profess their religion; and to teach and to study.

ART. 15. There shall be no slaves in the Argentine Nation. Those few now existing therein shall become free as soon as this constitution becomes law. The indemnifications which may have to be paid in consequence of this declaration shall be regulated by a special law. Contracts involving the purchase or sale of persons shall be criminal acts, for which the contracting parties, as well as the notary or official before whom they are executed, shall be responsible. Slaves introduced in any way whatever into the country shall become free by the mere fact of entrance into the territory of the republic.

ART. 16. The Argentine Nation does not recognize prerogatives of blood or of birth; personal privileges and titles of nobility shall not exist therein. All of its inhabitants are equal before the law, and their eligibility to office shall depend exclusively upon their fitness. Equality shall be the basis of taxation and of all public burdens.

ART. 17. Private property is inviolable, and no inhabitant of the nation shall be deprived of it except by judicial decision founded on law. Condemnation of property for a public purpose shall be authorized by law, and indemnification previously made. Congress alone shall have power to impose the taxes referred to in Art. 4. No personal service shall be required of anyone, except when ordered by law or by judicial decision founded on law. Authors and inventors shall be the exclusive owners of their works, inventions, or discoveries, for the length of time established by law. Confiscation of property is forever stricken out of the Argentine penal code. No armed body shall make requisitions or demand assistance of any kind.

ART. 18. No inhabitant of the nation shall be punished except after trial and conviction, under laws anterior to the commission of the offense; nor shall he be tried by special commissions, or removed from the jurisdiction of the courts which, under the laws in force at the time when the offense was committed, should take cognizance of his case. No one shall be compelled to testify against himself; nor shall anyone be arrested except by virtue of a written order of the proper authority. The defense of person and of rights before the courts shall be inviolable. Domicile, as well as epistolary correspondence and private papers, shall be inviolable, but a law shall determine in what cases and under what circumstances the former may be entered, and the latter seized. The penalty of death for political offenses, torture of all kinds, and whipping are abolished. The national jails shall be healthful and clean, intended for the safe-keeping and not for the punishment of the offenders detained therein, and any

measure which, under color of precaution, tends to inflict upon the prisoners more hardships than those required for their security shall cause the judge authorizing it to be held responsible.

ART. 19. Private actions which in no way offend public order or morals and are not injurious to a third party, shall be reserved to God alone, and are not subject to the authority of the state. No inhabitant of the nation shall be bound to do what is not ordered by law, nor shall he be forbidden to do what it does not prohibit.

ART. 20. Aliens shall enjoy in the territory of the nation all the civil rights of citizens. They may exercise their trade, business, or profession; own, buy, and transfer real estate; navigate the rivers and coasts; practice freely their religion; make wills, and contract marriage in conformity with the law. They shall not be compelled to become citizens or to pay forced extraordinary taxes. They may obtain naturalization by residing two consecutive years in the nation, but the authorities may shorten this period in favor of the applicant who affirms and proves that he has rendered services to the republic.

ART. 21. Every Argentine citizen shall be obliged to bear arms in defense of his country and of this constitution, in accordance with the laws enacted by Congress for that purpose, and in accordance with the decrees of the national executive. Naturalized citizens shall be free to render or to refuse military service during the ten years following the day on which they obtain their citizenship papers.

ART. 22. The people shall not deliberate, or exercise the powers of government, except through their representatives and authorities created by this constitution. Any armed force or gathering of persons assuming to be vested with the representation of the rights of the people and petitioning in their behalf shall be guilty of sedition.

ART. 23. In case of domestic disturbance or foreign attack, endangering the observance of this constitution and

the safety of the authorities created by it, a state of siege shall be proclaimed in the province or territory wherein public order is disturbed, and the constitutional guaranties shall be suspended within its limits. But during this suspension the President of the republic shall have no power by himself to condemn anyone or to inflict punishments. His power shall be limited in such cases, so far as persons are concerned, to arrest or transfer them from one place in the country to another, should they not prefer to leave the Argentine territory.

ART. 24. Congress shall promote the reform of the laws now in force, in all branches, and the establishment of trial by jury.

ART. 25. The federal government shall encourage European immigration, and shall not have power to restrict, limit, or obstruct, by taxation of any kind, the entrance into the Argentine territory of foreigners coming to it for the purpose of engaging in the cultivation of the soil, the improvement of industrial business, or the introduction and teaching of arts and sciences.

ART. 26. Navigation on the rivers in the interior of the nation is free to all flags, and subject to no other regulations than those proclaimed by the national authority.

ART. 27. The federal government shall be bound to strengthen the commercial and peaceful relations of the Argentine Nation with foreign countries, by means of treaties consistent with the principles of public law established by this constitution.

ART. 28. No principle, guaranty, or right recognized in the foregoing articles shall be altered by any law which may be enacted to regulate its exercise.

ART. 29. Congress shall not have power to grant to the national executive, or the provincial legislatures the power to grant to the provincial governors extraordinary powers, or the whole of the public authority, or to assent to submissions or

supremacy through which the lives, the honor, or the property of Argentines may be placed at the mercy of governments, or of any person whatsoever. Acts of this character shall be utterly void, and shall render their authors, or those who consent to them or authorize them with their signatures, liable to be called to account and to be punished as infamous traitors to their country.

ART. 30. The constitution may be amended either wholly or in part. The necessity for such amendment shall be declared by Congress, by a vote of at least two-thirds of its members; but the amendment itself shall not be made except by a convention called for that purpose.

ART. 31. This constitution, the national laws which may be enacted by Congress in pursuance thereof, and treaties with foreign powers shall be the supreme law of the nation; and the authorities of each province shall be bound to abide by them, any provision in their own provincial constitutions or laws to the contrary notwithstanding. This rule shall not be applicable to the province of Buenos Aires, in so far as the treaties ratified after the compact of November 11, 1859, are concerned.

ART. 32. The federal Congress shall not pass any law restricting the liberty of the press, or subjecting it to federal jurisdiction.

ART. 33. The declarations, rights, and guaranties enumerated in the constitution shall not be construed as involving the denial of any other rights and guaranties, not enumerated, but naturally derived from the principles of the sovereignty of the people and of the republican form of government.

ART. 34. The judges of the federal courts shall not at the same time be judges in the provincial courts. Neither shall a position in the federal service, whether civil or military, confer upon the official who holds it the rights of residence in the province wherein it is held, and which may not be his habitual abode, this provision applying to their being chosen

to positions in the province in which they may accidentally happen to be.

ART. 35. The names of "The United Provinces of the Rio de la Plata," "The Argentine Republic," "The Argentine Confederation," adopted in succession since 1810, may in future be used indiscriminately as the official designation of the government and the territory of the provinces; but the name of "The Argentine Nation" shall be used in the enactment and approval of the laws.

PART SECOND. AUTHORITIES OF THE NATION

TITLE I. THE FEDERAL GOVERNMENT

SECTION I. THE LEGISLATIVE POWER

ART. 36. The legislative power of the nation shall be vested in a Congress composed of two houses, one called the House of Deputies of the nation, and the other the House of Senators of the provinces and of the capital.

CHAPTER I. THE HOUSE OF DEPUTIES

ART. 37. The House of Deputies shall consist of representatives elected directly and by simple plurality of votes, by the people of the provinces and of the capital, which shall be considered for this purpose as electoral districts of a unitary state. The number of representatives shall be one for every thirty-three thousand inhabitants or fraction thereof of not less than sixteen thousand, five hundred. After the taking of each census Congress, upon the basis of such census, shall fix the ratio of representation, which may increase but not diminish the number of inhabitants required for each deputy.[4]

ART. 38. The deputies to the first Congress shall be elected in the following proportion: For the Province of Buenos Aires, twelve; for the Province of Córdoba, six; for

[4] As amended March 15, 1898. The original article established the proportion of one deputy for every twenty thousand inhabitants.

the Province of Catamarca, three; for the Province of Corrientes, four; for the Province of Entre Ríos, two; for the Province of Jujuy, two; for the Province of Mendoza, three; for the Province of La Rioja, two; for the Province of Salta, three; for the Province of Santiago, four; for the Province of San Juan, two; for the province of Santa Fé, two; for the Province of San Luis, two; for the Province of Tucumán, three.

ART. 39. A general census shall be taken before the meeting of the second Congress, and the apportionment of deputies shall then be made in accordance therewith. The census, however, shall not be taken more than once in every ten years.

ART. 40. No person shall be elected a deputy who has not attained the age of twenty-five, who has not been a citizen for four years, and who is not a native of the province electing him, or a resident thereof for the two preceding years.

ART. 41. The provincial legislatures shall regulate the manner of holding the first direct election of the deputies of the nation; Congress shall enact a general law for succeeding elections.

ART. 42. The deputies shall serve for four years, and are eligible for re-election. The House, however, shall be renewed by halves every two years, and for this purpose the deputies elected to the first Congress shall draw lots as soon as they meet, in order to determine those whose terms shall expire at the end of the first two years.

ART. 43. In case of vacancy, the government of the province or of the capital shall proceed to a legal election of a new member.

ART. 44. The initiative of laws relating to taxes and to the recruiting of troops shall belong exclusively to the House of Deputies.

ART. 45. The House of Deputies alone shall have the right to impeach before the Senate, the President, the Vice-

President, the ministers of the executive power, the justices of the Supreme Court, and the judges of the other inferior tribunals of the nation, for malfeasance or crime in the exercise of their functions, or for ordinary offenses. Impeachment of such person shall be made after investigation and a resolution that a trial is in order passed by a vote of two-thirds of the deputies present.

CHAPTER II. THE SENATE

ART. 46. The Senate shall consist of two senators for each province elected by a plurality of votes of the respective provincial legislatures. There shall also be two senators for the capital, who shall be elected in the manner prescribed for the election of the President of the nation. Each senator shall have one vote.

ART. 47. The following qualifications shall be necessary for election as senator: the attainment of the age of thirty; citizenship in the nation for six years; the enjoyment of an annual income of two thousand pesos in coin, or an equivalent amount of capital; and nativity in the province which elects him or residence therein for the two years immediately preceding.

ART. 48. Senators shall serve for nine years, and are eligible for re-election indefinitely. But the Senate shall be renewed by thirds every three years. For this purpose the senators themselves, as soon as they all convene, shall decide by lot those who shall retire at the expiration of the first and second periods of three years.

ART. 49. The Vice-President of the nation shall be president of the Senate; but he shall have no vote except in case of a tie.

ART. 50. The Senate shall elect a president *pro tempore* to preside in case of the absence of the Vice-President or when the latter acts as President of the nation.

ART. 51. The Senate shall have the power to try in

public the persons impeached by the House of Deputies, and senators, when sitting for that purpose, shall act under oath. When the impeached official is the President of the nation, the president of the Supreme Court shall preside over the Senate. No person shall be convicted without the concurrence of two-thirds of the members present.

ART. 52. The sentence of the Senate shall not extend further than removal of the one impeached from office and disqualification to hold any office of honor, trust, or profit under the nation; but the convicted person shall nevertheless be subject to indictment, trial, and punishment, according to law, by the ordinary courts.

ART. 53. The Senate may also authorize the President of the nation to declare a state of siege in one or more places in the republic, in case of foreign invasion.

ART. 54. When the seat of a senator becomes vacant on account of death, resignation, or for any other cause, the government of the province represented by such senator shall proceed immediately to the election of a new member.

CHAPTER III. PROVISIONS COMMON TO BOTH HOUSES

ART. 55. Both houses shall meet in regular session on the first day of May of each year and shall continue in session until the thirtieth of September. They may also be convened in extraordinary session or their sessions may be extended by the President of the nation.

ART. 56. Each house shall be the judge of the elections, rights, and titles of its own members, in so far as the question of their validity is concerned. Neither house shall transact business without the presence of a majority of all its members; but a smaller number shall have the power to compel the attendance of absent members by such means and under such penalties as each house may establish.

ART. 57. Both houses shall open and close their sessions simultaneously. Neither shall have the power, during

the session of Congress, to adjourn, without the consent of the other, for more than three days.

ART. 58. Each house may determine the rules of its proceedings, and, by a two-thirds vote, may punish any of its members for disorderly behavior in the discharge of his functions, remove him for physical or moral inability subsequent to his admission, or even expel him from the body. But a majority of one more than half of those present shall be sufficient to act upon the voluntary resignation of a member.

ART. 59. Senators and deputies, on taking their seats, shall take an oath to perform their duties properly and to act in all things in accordance with this constitution.

ART. 60. No member of Congress shall be indicted, judicially questioned, or molested for opinions expressed or speeches delivered by him in the discharge of his duties as a legislator.

ART. 61. Senators and deputies shall be, from the day of their election to the day of the expiration of their term, exempt from arrest, except when taken in the act of committing a crime that merits the death penalty or any other disgraceful or corporal punishment, in which case the matter shall be reported to the house to which the member belongs, with the record of the preliminary hearing.

ART. 62. Should any charge be made in writing, before the ordinary tribunals, against a senator or deputy, the house to which he belongs may, by a two-thirds vote, and upon examination in public of the merits of the case, suspend the accused from the exercise of his functions and surrender him to the proper court for trial.

ART. 63. Each house shall have power to summon to its presence the ministers of the executive power, in order that they may give orally the explanations and information which may be deemed proper.

ART. 64. No member of Congress shall receive from the executive any appointment or commission without first

obtaining the consent of the house to which he belongs; this article shall not be applicable to cases in which the appointment is merely a promotion.

ART. 65. No member of the religious orders shall be a member of Congress, nor shall any provincial governor represent his province during his term of office.

ART. 66. The remuneration of the services of senators and deputies shall be fixed by law and paid out of the funds of the national treasury.

CHAPTER IV. POWERS OF CONGRESS

ART. 67. Congress shall have power:

1) To legislate in regard to custom-houses, and to establish import duties, which, as well as the rates of appraisement on which they are based, shall be uniform throughout the nation; it being thoroughly understood, however, that these duties and all other taxes of a national character are payable in the currency of the respective provinces in their exact equivalent value; and likewise to establish export duties.[5]

2) To levy direct taxes for a definite period of time and in a manner proportionately equal throughout the territory of the nation, whenever the defense of the country, the common safety, or the public good may require it.

3) To borrow money on the credit of the nation.

4) To provide for the use and disposition of the national lands.

5) To establish and organize at the capital a national bank, with branches in the provinces, with power to issue bank notes.

6) To make arrangements for the payment of the national debt, both foreign and domestic.

7) To appropriate annually the money necessary to meet the expenses of the national government, and to approve or disapprove the accounts of its disbursement.

[5] As originally worded this article forbade the imposition of export taxes after 1866. It was amended September 12, 1866.

8) To grant subsidies, to be paid out of the national treasury, to those provinces whose revenues, according to their budgets, are insufficient to meet their ordinary expenses.

9) To regulate the free navigation of the rivers in the interior, to declare as ports of entry those which may be deemed fit for that purpose, and to establish or abolish custom-houses; but the custom-houses for foreign commerce, existing in each province at the time of its coming into the national union, shall not be abolished.

10) To coin money, fix the value thereof, and that of foreign coins, and to adopt a uniform system of weights and measures for the whole nation.

11) To enact civil, commercial, penal, and mining codes, without encroaching upon the local jurisdictions, the provisions of such codes to be enforced either by the federal or provincial courts, according as the matters or persons may fall under their respective jurisdictions; and especially to enact general laws on naturalization and citizenship, for the whole nation, based upon the principle of citizenship by nativity; as well as laws on bankruptcy, counterfeiting of money and forging of public documents of the state, and on the establishment of trial by jury.

12) To regulate commerce by land and sea with foreign countries, and among the provinces.

13) To establish and regulate the post-offices and post-roads of the nation.

14) To settle finally the national boundaries, to fix those of the provinces, to create new provinces, and to provide by special laws for the organization, administration, and government of the national territories which may be left outside the limits assigned to the provinces.

15) To provide for the security of the frontiers and for the preservation of peaceful intercourse with the Indians, and to promote their conversion to Catholicism.

16) To provide for all that conduces to the prosperity of

the country, to the advancement and welfare of all the provinces, and to the advancement of the enlightenment of the people, by prescribing plans for general and university instruction and by promoting industrial enterprise, immigration, the construction of railways and navigable canals, the colonization of the public lands, the introduction and establishment of new industries, the importation of foreign capital, and the exploration of the interior rivers, by protective laws for these purposes, by concessions of privileges for a limited time, and by rewards which shall act as an encouragement.

17) To establish courts inferior to the Supreme Court of Justice; to create and abolish offices, and to fix the duties of the same; to grant pensions, decree honors, and to grant general amnesties.

18) To accept, or refuse to accept, the reasons assigned for the resignation of the President or Vice-President of the republic; to declare that the time has arrived to proceed to a new election, to count the returns thereof, and to ascertain the result.

19) To approve or reject treaties concluded with other nations, and concordats entered into with the Apostolic See, and to make rules for the exercise of ecclesiastical patronage throughout the nation.

20) To admit into the territory of the nation religious orders in addition to those now existing.

21) To authorize the executive power to declare war or to make peace.

22) To grant letters of marque and of reprisal and to make rules concerning prizes.

23) To fix the strength of the land and naval forces in times of peace and of war, and to make rules and ordinances for the government of such forces.

24) To authorize the calling out of the militia of any or all of the provinces, whenever the execution of the laws of the nation, the suppression of insurrections, or the repelling

of invasions may render it necessary; to provide for the organization, equipment, and discipline of such militia, and for the administration and government of the part thereof which may be employed in the service of the nation, leaving to the provinces the power to appoint the proper chiefs and officers of their respective militias, and to enforce in regard to them the discipline established by Congress.

25) To permit the introduction of foreign troops into the territory of the nation, and the departure therefrom of the national troops.

26) To proclaim a state of siege in one or more places in the nation in case of internal disorder, and to approve or suspend the state of siege declared during the recess of Congress by the executive power.

27) To exercise exclusive legislative power throughout the territory of the national capital, and in all other places acquired by purchase or cession in any province for the construction of forts, arsenals, magazines, or other establishments of national utility.

28) To make all laws and regulations which shall be necessary for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the Argentine Nation.

CHAPTER V. ENACTMENT AND APPROVAL OF LAWS

ART. 68. Laws may originate in either house of Congress, by means of bills introduced by the members thereof or by the Executive; except, however, those relating to the subjects mentioned in Art. 44.

ART. 69. When a bill has been passed in the house where it originated, it shall be sent to the other house for discussion. Having been passed by both houses, it shall be sent to the Executive of the nation for examination, who, if he approve it, shall promulgate it as law.

ART. 70. Bills not returned by the Executive within ten working days shall be considered approved.

ART. 71. No bill wholly rejected in one house shall be introduced again during the sessions of the same year. But if it be merely added to or amended by the house to which it was sent for examination, it shall be returned to the house in which it originated; and if the additions or amendments be adopted there by an absolute majority, it shall be sent to the Executive of the nation. If the additions or amendments be rejected, the bill shall be again referred to the house where they were made, and if they be again approved there by a majority of two-thirds of the members thereof, the bill shall be again referred to the other house, where such additions or amendments shall not be deemed rejected unless the rejection is made by a majority of two-thirds of the members present.

ART. 72. A bill rejected, either wholly or in part, by the Executive, shall be returned with his objections to the house in which it originated, where it shall be discussed a second time, and if passed by a two-thirds' majority, shall be again referred to the other house for examination. If the bill pass both houses by the aforesaid majority, it shall become a law and shall go to the Executive for promulgation. The votes in both houses in this case shall be by yeas and nays, and the names of the members who took part in the vote, as well as the grounds upon which they founded their votes, and the objections of the Executive, shall be immediately published by the press. If the houses disagree in regard to the objections, the bill shall not be reconsidered in any session of the same year.

ART. 73. The enacting clause of the laws shall be as follows: "The Senate and the House of Deputies of the Argentine Nation, in Congress assembled, etc., decree or sanction as law:"

SECTION II. THE EXECUTIVE POWER

CHAPTER I. ITS NATURE AND DURATION

ART. 74. The executive power of the nation shall be vested in a citizen with the title of "President of the Argentine Nation."

ART. 75. In case of illness, absence from the capital, death, resignation, or removal of the President, the executive power shall be exercised by the Vice-President of the nation. In case of removal, death, resignation, or incapacity of both the President and Vice-President of the nation, Congress shall determine what public officer shall act as President until the disability is removed or a new President is elected.[6]

ART. 76. To be elected President or Vice-President of the nation, one must have been born in the Argentine Territory, or if born in a foreign country, be the son of a native citizen; must belong to the Roman Catholic apostolic church; and must have all the other qualifications required to be a senator.

ART. 77. The President and the Vice-President shall hold their offices for a term of six years, but neither shall be re-elected until after an intermission of one term.

ART. 78. The President of the nation shall cease to exercise his powers on the same day on which his term of six years expires; and no event of any kind which may have interrupted such term may be alleged as a reason for completing it afterward.

ART. 79. The President and Vice-President shall receive for their services a compensation, to be paid from the national treasury, the amount of which shall not be changed during their terms of office. During said period they shall not exercise any other office or receive any other emolument, either national or provincial.

[6] By the law of September 19, 1868, the order of succession to the presidency is fixed as follows: (1) President *pro tempore* of the Senate; (2) President of the House of Deputies; (3) President of the Supreme Court.

ART. 80. On entering upon the discharge of their duties, the President and the Vice-President shall take an oath, which shall be administered to them by the president of the Senate (the first time by the president of the Constitutional Convention), Congress being in session, in the following terms:

I, ——— ———, do swear, before God our Lord and these Holy Gospels to discharge loyally and patriotically the office of President (or Vice-President) of the nation, and faithfully to observe and to cause others to observe the constitution of the Argentine Nation. Should I fail to do so, may God and the nation require it of me.

CHAPTER II. MANNER AND TIME OF ELECTING THE PRESIDENT AND VICE-PRESIDENT OF THE NATION

ART. 81. The election of the President and Vice-President of the nation shall be made in the following manner: The capital and each one of the provinces shall appoint, by direct vote, an electoral college, consisting of twice as many members as the number of senators and deputies constituting their respective representation in Congress, who shall have the same qualifications, and shall be elected in the same manner, as is provided for the election of deputies.

Deputies, senators, and officials receiving pay from the federal government shall be disqualified from acting as electors.

Four months before the expiration of the presidential term, the electors chosen by the capital shall meet in the capital, and those chosen by the provinces in their respective capitals, and shall proceed to elect by signed ballots the President and Vice-President of the nation, expressing in one ballot the choice for President and in another distinct ballot the choice for Vice-President.

Two lists shall be made of all the persons named for President and two others of those named for Vice-President, with the number of votes cast in favor of each of them. These lists shall be signed by the electors and sent by them sealed, two (one of each kind) to the president of the provin-

cial legislature, and in the case of the capital to the president of the municipality—to be filed and kept, with their seals unbroken, in their respective archives—and the other two to the president of the Senate (for the first election, to the president of the Constitutional Convention).

ART. 82. The president of the Senate (for the first election, the president of the Constitutional Convention), having all the lists in his possession, shall open them in the presence of the two houses. Four members of Congress, selected by lot, shall, together with the secretaries, immediately proceed to count and announce the votes cast for each candidate for President and Vice-President of the nation. Those receiving in each case an absolute majority of all the votes shall be immediately proclaimed President and Vice-President.

ART. 83. In case the vote is divided and no absolute majority can be obtained, Congress shall elect one of the two persons who shall have obtained the greatest number of votes. If the highest votes obtained prove to be in favor of more than two persons, Congress shall make its choice from among all of them. If the highest vote obtained proves to be in favor of only one person, and two or more persons are favored with the next largest vote, the choice of Congress shall be made from among all those who obtained the first and second highest votes.

ART. 84. This choice shall be made by an absolute majority of votes, the votes to be verbal. If such majority is not obtained on the first ballot, a second vote shall be taken, restricting the vote to the two persons who shall have obtained the greatest number of votes on the first ballot. If the vote is equally divided, the balloting shall be repeated, but if it again results in an equal division, the president of the Senate (for the first election the president of the Constitutional Convention) shall decide by his vote. The counting of the votes and the verifying of these elections shall not be made without the presence of three-fourths of all the members of Congress.

ART. 85. The election of the President and Vice-President of the nation shall be concluded in a single sitting of Congress, and the result thereof, as well as the journal of the electoral proceedings, shall be published immediately through the newspapers.

CHAPTER III. POWERS OF THE EXECUTIVE

ART. 86. The President of the nation shall have the following powers:

1) He shall be the chief magistrate of the nation, and shall have in his charge the general administration of the country.

2) He may issue the instructions and regulations necessary for the execution of the laws of the nation, taking care that the spirit of such laws be not changed by exceptions introduced through the said regulations.

3) He shall be the chief local authority of the capital of the nation.

4) He shall assist, in the manner provided by the constitution, in making the laws, shall approve them, and shall cause them to be promulgated.

5) He shall appoint, with the advice of the Senate, the judges of the Supreme Court and of all other inferior federal courts.

6) He may grant pardons or commute punishments in cases of offenses subject to federal jurisdiction, upon report of the proper court, except in cases of impeachment by the House of Deputies.

7) He may place officials on the retired list with pay, and grant leaves of absence, and the enjoyment of pensions to widows and orphans, in accordance with the laws of the nation.

8) He shall exercise the right of national ecclesiastical patronage by presenting bishops for the cathedral churches, selected from three names proposed to him by the Senate.

9) He shall, with the advice of the Supreme Court, grant or refuse passage to decrees of the councils, bulls, briefs, and rescripts of the Supreme Pontiff of Rome; but said grant or refusal shall be made by law, whenever such ecclesiastical enactments contain provisions of a general or permanent character.

10) He shall appoint and remove, with the advice of the Senate, ministers plenipotentiary and *chargés d'affaires,* and by himself alone, without senatorial action, the ministers of state, officials of the departments, consular agents, and all the government employees whose appointment is not otherwise provided for by this constitution.

11) He shall open the annual sessions of Congress, both houses assembling for that purpose in the hall of the Senate; on this occasion he shall furnish information as to the condition of the nation, of the reforms promised by the constitution, and shall recommend to the consideration of the houses such measures as he may deem necessary and expedient.

12) He may extend the regular session of Congress, or convene it in extraordinary session, when some grave interest of order or progress may require it.

13) He shall cause the revenue of the nation to be collected, and shall decree the disbursement thereof in accordance with the law or budgets of national expenses.

14) He shall conclude and sign treaties of peace, of commerce, of navigation, of alliance, of boundaries, and of neutrality, as well as concordats and all other negotiations required for the maintenance of friendly relations with foreign powers; he shall receive their ministers and admit their consuls.

15) He shall be the commander-in-chief of all the land and naval forces of the nation.

16) He shall appoint all the military officers of the nation, with the consent of the Senate when the position to be filled, or the rank to be given, is that of a superior officer in either

the army or the navy; and by himself when the appointments are made on the battlefield.

17) He shall dispose of the land and naval forces of the nation and shall attend to their organization and distribution, according to the necessities of the nation.

18) With the authority and approval of Congress, he may declare war and grant letters of marque and of reprisal.

19) With the consent of the Senate, and in case of foreign invasion, he may declare one or more places in the nation to be in a state of siege for a limited time. In case of internal troubles, he may exercise such power only during the recess of Congress, for such power belongs to that body. The President shall exercise this power within the limitations established by Art. 23.

20) He may require whatever information he may desire from the chiefs of all bureaus and departments of the government and through them from other officials, and they shall be obliged to furnish it.

21) The President shall not leave the national capital without the permission of Congress. During the recess of the latter, he may, however, absent himself from the capital without such permission, if some grave necessity of the public service shall demand it.

22) The President shall have the power to fill those vacancies which require the consent of the Senate, and which occur during a recess, by means of appointments which shall expire at the close of the next session.

CHAPTER IV. THE MINISTERS OF THE EXECUTIVE POWER

ART. 87. Eight ministers or secretaries shall have charge of the affairs of the nation, and shall countersign and attest the acts of the President by means of their signatures; these acts shall not be valid without such countersignature. A special law shall determine the business of each department.[7]

[7] As amended March 15, 1898. By the original article there were only five ministers.

ART. 88. Each minister is individually responsible for the acts signed by himself and jointly with the other ministers for all acts agreed upon between him and his colleagues.

ART. 89. The ministers shall not, in any case, take individual action on any subject, unless it concerns only the internal government of their own respective departments.

ART. 90. As soon as Congress opens its sessions, each minister shall submit to it a detailed report upon the state of the nation in all that relates to the business of his own department.

ART. 91. No minister shall become either senator or deputy without first resigning his position as minister.

ART. 92. Ministers may attend the sessions of Congress and take part in the debates, but shall have no vote.

ART. 93. Ministers shall receive for their services a salary established by law; but this salary shall not be increased or diminished in favor of or against the incumbent of the position.

SECTION III. THE JUDICIAL POWER

CHAPTER I. ITS NATURE AND DURATION

ART. 94. The judicial power of the nation shall be vested in a Supreme Court of Justice and in such other inferior courts as Congress may establish in the national territory.

ART. 95. The President of the nation shall in no case exercise judicial functions, assume jurisdiction of any pending case, or reopen cases already decided.

ART. 96. The judges of the Supreme Court and of the inferior courts of the nation shall hold their offices during good behavior, and shall receive for their services a compensation to be fixed by law, which shall not be diminished in any manner while they remain in the exercise of their functions.

ART. 97. No person shall be a member of the Supreme Court of Justice who is not a lawyer with eight years' practice

in the national courts, and has not, furthermore, the qualifications necessary to be a senator.

ART. 98. On the first assembling of the Supreme Court the members thereof shall take an oath, which shall be administered to them by the President of the nation, to fulfil their duties by administering justice well and legally and in accordance with the provisions of the constitution. In the future the oath shall be administered to them by the president of said court.

ART. 99. The Supreme Court shall make rules for the transaction of its business, and shall appoint all its subordinate employees.

CHAPTER II. FUNCTIONS OF THE JUDICIAL POWER

ART. 100. The Supreme Court and the inferior courts of the nation shall try and decide all cases, not enumerated in clause 11 of Art. 67, which arise under the provisions of this constitution, the laws of the nation, or treaties with foreign powers; in cases concerning ambassadors, public ministers, and foreign consuls; in cases of admiralty and maritime jurisdiction; in controversies to which the nation is a party; in cases which arise between two or more provinces, between one province and citizens of another province, between citizens of different provinces, and between a province or its citizens and a foreign state or its citizens.

ART. 101. In the above-mentioned cases the Supreme Court shall have appellate jurisdiction, under such rules and exceptions thereto as Congress may establish; but in all cases concerning foreign ambassadors, ministers, and consuls, and in those to which a province may be a party, the jurisdiction of the court shall be original and exclusive.

ART. 102. The trial of all ordinary crimes, except in cases of impeachment, which belong to the House of Deputies, shall be by jury, as soon as this institution shall be established in the republic. Such trials shall take place in the province

where the offense shall have been committed; but when the offense shall have been committed outside the boundaries of the nation, and in violation of the law of nations, Congress shall determine by a special law the place in which the trial shall take place.

ART. 103. Treason against the nation shall consist only in taking up arms against it or in joining its enemies and lending them aid and succor. Congress shall by a special law determine the penalty for this crime, but the punishment shall not go beyond the person of the offender, nor shall any infamy resulting therefrom attaint his relatives, whatever the degree of relationship.

TITLE II. PROVINCIAL GOVERNMENTS

ART. 104. The provinces retain all powers not delegated by the present constitution to the federal government, and those which they may have expressly reserved by special agreements at the time of their coming into the union.

ART. 105. The provinces shall have their own local institutions and shall be governed by them. They shall elect their governors, legislators, and other provincial officers without the intervention of the federal government.

ART. 106. Each province shall enact its own constitution, in accordance with the provisions of Art. 5.

ART. 107. With the knowledge of the federal Congress, the provinces may enter into partial treaties for the purposes of the administration of justice, the regulation of financial interests, and the execution of public works of common utility; they may promote, by means of protective laws and at their own expense, industry, immigration, the construction of railways and navigable canals, the colonization of provincial lands, the introduction and establishment of new industries, the importation of foreign capital, and the exploration of their rivers.

ART. 108. The provinces shall not exercise any power

delegated to the nation. They shall not enter into any partial treaties of a political character; pass laws relating to domestic or foreign commerce or navigation; establish provincial custom-houses; coin money; or create banks of issue without authority from the federal Congress; nor shall they enact any civil, commercial, criminal, or mining codes, after Congress has enacted such codes, or especially pass laws on the subjects of citizenship, naturalization, bankruptcy, and counterfeiting of money or forging of government documents; nor shall they establish tonnage dues, arm war vessels, or raise armies, except in case of foreign invasion or of danger so imminent as to admit of no delay, immediately giving account thereof to the federal government; nor shall they appoint or receive foreign agents, or admit new religious orders.

ART. 109. No province shall declare or wage war against another. Their complaints shall be submitted to and settled by the Supreme Court of Justice. Actual hostilities on the part of one province against another shall be deemed acts of civil war, seditious and riotous, which the federal government shall put down and repress according to law.

ART. 110. The governors of the provinces shall be the natural agents of the federal government for the enforcement of the constitution and of the laws of the nation.

COMMONWEALTH OF AUSTRALIA

One of the most interesting political movements of the nineteenth century was the formation of federal states from the separate British colonies of North America and Australia. In each case the terms of federation were agreed upon by the colonies and were enacted into law by the British Parliament.

A union of the British colonies of Australia was under discussion for many years. A bill introduced into the British Parliament in 1849 provided for the establishment of a general executive and legislative authority for all of the Australian colonies, and in 1851 a governor-general was appointed over all the Australian possessions of Great Britain.

Between 1863 and 1883 numerous intercolonial conferences were held for the purpose of regulating matters common to the several colonies. A plan of federation was submitted to the conference of 1881, and in 1883 plans were agreed to for a Federal Australasian Council, which was created by a British act of 1885. Membership in this council was voluntary, and but four of the colonies were constant members. The council had little power but served a useful purpose as a step toward a closer union.

In 1887 the question of military defense started anew the discussion of federation, and in February, 1890, a conference of seven colonies met at Melbourne to consider the advisability of union. This conference recommended that a national Australasian convention should be called to report a plan for a federal constitution. Such a convention met at Sydney in the spring of 1891 and adopted a "Draft of a Bill to Constitute the Commonwealth of Australia." Little further was done until 1895 when a conference of the premiers of the several colonies proposed a convention for the purpose of framing a constitution. This plan was adopted, and the convention held three sessions from March, 1897, to March, 1898; this convention proposed a draft of a constitution which was adopted by three colonies in 1898. At a conference of premiers in 1899 several amendments were agreed upon, and in the same year five colonies adopted the revised con-

stitution. Several other changes were made in consultation with the British government; the amended constitution passed the British Parliament and received the royal assent on July 9, 1900. Western Australia did not join the other colonies until after the passage of the "Commonwealth of Australia Constitution Act," and New Zealand still remains aloof from the federation.

SELECT BIBLIOGRAPHY

Official Report of the National Australasian Convention Debates. Adelaide, March 22 to May 5, 1897. (Adelaide, 1897.)

Official Record of the Debates of the Australasian Federal Convention. Second Session. Sydney, 2d to 24th September, 1897. (Sydney, 1897.)

Official Record of the Debates of the Australasian Federal Convention. Third Session. Melbourne, 20th January to 17th March, 1898. (Melbourne [1898]. 2 vols.)

Bryce, James. *Studies in History and Jurisprudence.* (London, 1901.) One of the studies is devoted to a brief account of Australian federation; this and five other constitutional studies were issued in separate form in 1901.

Clark, A. Inglis. *Studies in Australian Constitutional Law.* (2d ed., Melbourne, 1905.) A legal treatise which discusses the constitution with especial reference to the decisions of the United States Supreme Court.

Jenks, Edward. *A History of the Australasian Colonies.* (Cambridge, 1896.) An excellent work, which devotes especial attention to the constitutional development.

Jenks, Edward. *Government of Victoria.* (London, 1891.) A careful study of the government of one of the most important Australian colonies.

Moore, W. Harrison. *The Constitution of the Commonwealth of Australia.* (London, 1902.) An important commentary on the text of the Australian constitution.

Quick, John and Garran, R. R. *The Annotated Constitution of the Australian Commonwealth.* (Sydney, 1901.) An indispensable book for the study of the Australian constitution. It contains a full history of the federal movement, and the annotations trace the development of each clause of the constitution.

Todd, Alpheus. *Parliamentary Government in the British Colonies.* (2d ed., London, 1894.) Gives a good account of the development of responsible government in the separate Australian colonies.

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

(July 9, 1900)

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: and Whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Commonwealth of Australia Constitution Act.

2. The provisions of this Act referring to the Queen shall extend to Her Majesty's Heirs and Successors in the Sovereignty of the United Kingdom.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the Proclamation, appoint a Governor-General for the Commonwealth.

4. The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after

the day so appointed. But the Parliaments of the several Colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

5. This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the Courts, Judges, and people of every State, and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the Northern Territory of South Australia, as for the time being are parts of the Commonwealth, and such Colonies or Territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called a "State."

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

7. The Federal Council of Australasia Act, 1885, is hereby repealed; but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

8. After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be

taken to be a self-governing colony for the purposes of that Act.

9. The Constitution of the Commonwealth shall be as follows:

THE CONSTITUTION

This Constitution is divided as follows:—

CHAPTER I. The Parliament:
Part I. General:
Part II. The Senate:
Part III. The House of Representatives:
Part IV. Both Houses of Parliament:
Part V. Powers of the Parliament:
CHAPTER II. The Executive Government:
CHAPTER III. The Judicature:
CHAPTER IV. Finance and Trade:
CHAPTER V. The States:
CHAPTER VI. New States:
CHAPTER VII. Miscellaneous:
CHAPTER VIII. Alteration of the Constitution:
The Schedule.

CHAPTER I. THE PARLIAMENT

PART I. GENERAL

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

2 A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to the Constitution, such powers and functions of the Queen as her Majesty may be pleased to assign to him.

3. There shall be payable to the Queen out of the Con-

solidated Revenue Fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be Ten thousand pounds.

The salary of a Governor-General shall not be altered during his continuance in office.

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

5. The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

6. There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

PART II. THE SENATE

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be

chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each state, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.

The Parliament of a State may make laws for determining the times and places of elections of senators for the State.

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of January following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of January preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the Office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

20. The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth, the Governor-General shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators

shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

23. Questions arising in the Senate shall be determined by a majority of votes; and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

PART III. THE HOUSE OF REPRESENTATIVES

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:—

(i) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:

(ii) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Notwithstanding anything in section twenty-four, the

number of members to be chosen in each State at the first election shall be as follows:

New South Wales,	Twenty-three
Victoria,	Twenty
Queensland,	Eight
South Australia,	Six
Tasmania,	Five

Provided that if Western Australia is an Original State, the number shall be as follows:

New South Wales,	Twenty-six
Victoria,	Twenty-three
Queensland,	Nine
South Australia,	Seven
Western Australia,	Five
Tasmania,	Five

27. Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

28. Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

31. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives, or from the proclamation of a dissolution thereof.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker, or if he is absent from the Commonwealth, the Governor-General in Council may issue the writ.

34. Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—

(i) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:

(ii) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth or of a State.

35. The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

37. A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker, or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

38. The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

39. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

PART IV. BOTH HOUSES OF THE PARLIAMENT

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the Schedule to this Constitution.

43. A member of either House of the Parliament shall be

incapable of being chosen or of sitting as a member of the other House.

44. Any person who—

(i) Is under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or

(ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or

(iii) Is an undischarged bankrupt or insolvent: or

(iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or

(v) Has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth, otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section iv does not apply to the office of any of the Queen's Ministers of State for the Commonwealth or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

45. If a senator or member of the House of Representatives—

(i) Becomes subject to any of the disabilities mentioned in the last preceding section: or

(ii) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or

(iii) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State:

his place shall thereupon become vacant.

46. Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

47. Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

48. Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of Four hundred pounds a year, to be reckoned from the day on which he takes his seat.

49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

50. Each House of the Parliament may make rules and orders with respect to:—

(i) The mode in which its powers, privileges, and immunities may be exercised and upheld:

(ii) The order and conduct of its business and proceedings either separately or jointly with the other House.

PART V. POWERS OF THE PARLIAMENT

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

(i) Trade and commerce with other countries, and among the States:

(ii) Taxation; but so as not to discriminate between States or parts of States:

(iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:

(iv) Borrowing money on the public credit of the Commonwealth:

(v) Postal, telegraphic, telephonic, and other like services:

(vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:

(vii) Light-houses, light-ships, beacons and buoys:

(viii) Astronomical and meteorological observations:

(ix) Quarantine:

(x) Fisheries in Australian waters beyond territorial limits:

(xi) Census and statistics:

(xii) Currency, coinage, and legal tender:

(xiii) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:

(xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:

(xv) Weights and measures:

(xvi) Bills of exchange and promissory notes:

(xvii) Bankruptcy and insolvency:

(xviii) Copyrights, patents of inventions and designs, and trade marks:

(xix) Naturalization and aliens:

(xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:

(xxi) Marriage:

(xxii) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:

(xxiii) Invalid and old-age pensions:

(xxiv) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:

(xxv) The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States:

(xxvi) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:

(xxvii) Immigration and emigration:

(xxviii) The influx of criminals:

(xxix) External affairs:

(xxx) The relations of the Commonwealth with the islands of the Pacific:

(xxxi) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

(xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:

(xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:

(xxxiv) Railway construction and extension in any State with the consent of that State:

(xxxv) Conciliation and arbitration for the prevention and

settlement of industrial disputes extending beyond the limits of any one State:

(xxxvi) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:

(xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

(xxxviii) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

(xxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

52. The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

(i) The seat of Government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:

(ii) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

(iii) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing

provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may if it thinks fit make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

57. If the House of Representatives passes any proposed

law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

58. When a proposed law, passed by both Houses of the

Parliament, is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

The Governor-General may return to the House in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend and the Houses may deal with the recommendation.

59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General, by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

CHAPTER II. THE EXECUTIVE GOVERNMENT

61. The executive power of the Commonwealth is vested in the Queen, and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

63. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring

to the Governor-General acting with the advice of the Federal Executive Council.

64. The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council and shall be the Queen's Ministers of State for the Commonwealth.

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

65. Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes or, in the absence of provision, as the Governor-General directs.

66. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.

67. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:—

Posts, telegraphs, and telephones:
Naval and military defence:
Light-houses, light-ships, beacons, and buoys:
Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

CHAPTER III. THE JUDICATURE

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

72. The Justices of the High Court and of the other courts created by the Parliament—

(i) Shall be appointed by the Governor-General in Council:
(ii) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:
(iii) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

(i) Of any Justice or Justices exercising the original jurisdiction of the High Court:

(ii) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council:

(iii) Of the Inter-State Commission, but as to questions of law only:

and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon

13500

an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitations shall be reserved by the Governor-General for Her Majesty's pleasure.

75. In all matters—

(i) Arising under any treaty:

(ii) Affecting consuls or other representatives of other countries:

(iii) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth is a party:

(iv) Between States, or between residents of different States, or between a State and a resident of another State:

(v) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

the High Court shall have original jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter—

(i) Arising under this Constitution, or involving its interpretation:

(ii) Arising under any laws made by the Parliament:

(iii) Of admiralty and maritime jurisdiction:

(iv) Relating to the same subject-matter claimed under the laws of different States.

77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws—

(i) Defining the jurisdiction of any federal court other than the High Court:

(ii) Defining the extent to which the jurisdiction of any

federal court shall be exclusive of that which belongs to or is invested in the courts of the States:

(iii) Investing any court of a State with federal jurisdiction.

78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

CHAPTER IV. FINANCE AND TRADE

81. All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. When any department of the public service of a State

becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State, with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth—

(i) All property of the State, of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such

time only as the Governor-General in Council may declare to be necessary:

(ii) The Commonwealth may acquire any property of the State, of any kind, used, but not exclusively used, in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:

(iii) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:

(iv) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

89. Until the imposition of uniform duties of customs:—

(i) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(ii) The Commonwealth shall debit to each State—

(*a*) the expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;

(*b*) the proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.

(iii) The Commonwealth shall pay to each State month by month the balance (if any) in favor of the State.

90. On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or excise, or offering bounties on the production or export of goods, shall cease to have effect; but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods

imported before the imposition of uniform duties of customs into any State, or into any colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides—

(i) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State.

(ii) Subject to the last sub-section, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State,' and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second,

third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

97. Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government, or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government, or an officer of the Colony is mentioned.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of

the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

103. The members of the Inter-State Commission—

(i) Shall be appointed by the Governor-General in Council:

(ii) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:

(iii) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The Parliament may take over from the States their

public debts as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

CHAPTER V. THE STATES

106. The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

107. Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue, as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

109. When a law of a State is inconsistent with a law of

the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

111. The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings of every State.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI. NEW STATES

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed

upon, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

CHAPTER VII. MISCELLANEOUS

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

126. The Queen may authorize the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

CHAPTER VIII. ALTERATION OF THE CONSTITUTION

128. This Constitution shall not be altered except in the following manner:—

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representa-

tion of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto shall become law unless the majority of the electors voting in that State approve the proposed law.

SCHEDULE

OATH

I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So help me God!

AFFIRMATION

I, A. B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

NOTE.—The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.

AUSTRIA

In 1848 revolutions broke out in almost all parts of the Austrian dominions. It seemed for a time that the empire must fall to pieces, but the army remained loyal and crushed the insurrections in Austria and Italy; the Hungarian revolution was suppressed with the assistance of Russian troops.

During the height of the revolution it was seen that some concession must be made to liberal views. A constitution, based upon the Belgian constitution of 1831, was published by an imperial edict of April 25, 1848; but the popular leaders of Vienna were not satisfied and the Emperor was forced to convene a constituent assembly, elected by universal suffrage, composed of representatives from all parts of the empire except Hungary. This assembly met at Vienna on July 22, 1848, and was adjourned to Kremsier in October but was forcibly dissolved when the revolutionary forces were brought under control; its one act was the abolition of the seigniorial system.

Some permanent reforms were accomplished by the Austrian revolutionary movements of 1848, but when armed opposition was suppressed the system of absolutism was re-established, and repressive measures were carried out more vigorously than ever. For ten years Austria was in a state of political and intellectual torpor. But the imperial government was growing constantly weaker, and the state was upon the verge of bankruptcy. The Italian war brought matters to a crisis; the Emperor realized this and took the first step toward the establishment of a more liberal system of government.

In March, 1860, he summoned representatives from the several provinces to meet with the council of state for the consideration of financial affairs and of plans for the reorganization of the empire. In this body there were two parties, the stronger of which favored the recognition of the various races and the re-establishment of their diets. The Emperor accepted this advice and by a diploma of October 20, 1860, recognized the rights of the provincial diets to enact laws. Matters common to

the whole empire were to be considered by an imperial council in which should sit delegates from the provincial diets. This constitution lasted but four months; it was so worded as to justify the claim on the part of Hungary that the constitutional organization of 1848 had been restored, and these extreme claims caused the government to change its policy.

The diploma of 1860 was practically superseded by the patent of February 26, 1861; this instrument preserved the national diets, but created a central legislature of two houses for the empire; this legislature or *Reichsrat* was to meet annually and was given extensive powers. If Hungarian delegates were present the *Reichsrat* was competent to consider matters common to all the countries of the empire; without the Hungarian members no matters relating to that kingdom were to be considered. This patent practically ignored the diversity of races, and the rights claimed by the several countries of the empire. Hungary and Venetia at once refused to send representatives to the imperial legislature; the Poles and Czechs soon followed their example. The constitution of 1861 proved a signal failure.

The Emperor finally determined to recognize the principle of dualism and to reach an agreement with Hungary upon that basis. On September 20, 1865, he suspended the patent of 1861, and negotiations were immediately begun with Hungary which ended in the agreement of 1867.

The changed relations with Hungary made necessary changes in the Austrian constitution; the fundamental laws of 1867 recast the Austrian government upon more liberal principles than had hitherto existed. Since that date important changes have been introduced with regard to the suffrage qualifications; the fundamental laws, as now in force, are given below.

SELECT BIBLIOGRAPHY

AUSTRIA. *Die Staatsgrundgesetze.* (7th ed., Vienna, 1900. Manz'sche Taschenausgabe der oesterreichischen Gesetze.) A collection of Austrian constitutional laws now in force; contains texts of the provincial constitutions.

BERNATZIK, EDMUND. *Die oesterreichischen Verfassungsgesetze.* (Leipzig, 1906.) An excellent collection, containing the documents necessary for the study of Austrian constitutional history.

GELLER, LEO. *Oesterreichische Verwaltungsgesetze mit Erläuterungen aus der Rechtsprechung.* (Vienna, 1884–97. 5 vols in 6.) Vol. I of this collection (in two parts, 2d ed., 1896) contains the constitutional laws and the important administrative laws.

ULBRICH, J. *Oesterreichisches Staatsrecht.* (3d ed., Tübingen, 1904. Handbuch des oeffentlichen Rechts.) Ulbrich is the leading authority upon Austrian public law. He is also the author of a more extensive *Lehrbuch des oesterreichischen Staatsrechts* (Vienna, 1883), and of a brief treatise on administrative law, *Grundzüge des oesterreichischen Verwaltungsrechtes* (Prague, 1884).

GUMPLOWICZ, LUDWIG. *Das oesterreichische Staatsrecht.* Ein Lehr- und Handbuch. (3d ed., Vienna, 1907.) A careful study of the constitutional law of Austria-Hungary.

MISCHLER, ERNST UND ULBRICH, JOSEF. *Oesterreichisches Staatswörterbuch.* Handbuch des gesammten oesterreichischen oeffentlichen Rechtes. (Vienna, 1895–97. 2 vols in 3.) A useful dictionary of Austrian public law. A second edition is in course of publication.

FUNDAMENTAL LAW CONCERNING THE GENERAL RIGHTS OF CITIZENS

(December 21, 1867)

ARTICLE 1. For all natives of the various kingdoms and countries represented in the Reichsrat there exists a common right of Austrian citizenship. The law shall determine under what conditions Austrian citizenship is gained, exercised, and lost.

ART. 2. All citizens are equal before the law.

ART. 3. Public offices shall be equally open to all citizens. The admission of foreigners to public office is dependent upon their acquisition of Austrian citizenship.

ART. 4. The freedom of passage of persons and property, within the territory of the state, shall be subject to no restrictions.

All citizens who live within a commune and pay therein a tax on real property, business, or income, shall have the right to vote for members of the communal assembly (*Gemeinde-*

vertretung) and shall be eligible to that body, under the same conditions as natives of the commune.

Freedom of emigration is limited by the state only by the obligation to serve in the army.

Taxes on emigration shall be levied only as a measure of retaliation.

ART. 5. Property is inviolable. Forced expropriation shall take place only in the cases and according to the forms determined by law.

ART. 6. Every citizen may dwell temporarily or establish his residence in any part of the territory of the state, acquire real property of any kind and freely dispose of the same, and may also engage in any form of business, under legal conditions.

In the matter of mortmain the law may, for reasons of public policy, restrict the right of acquiring and of disposing of real property.

ART. 7. Every relation of vassalage or dependence is forever abolished. Every burden or charge resting upon the title to real property is redeemable, and in future no land shall be burdened with an irredeemable charge.

ART. 8. Liberty of person is guaranteed. The law of October 27, 1862 (*Reichsgesetzblatt,* No. 87), on the protection of individual liberty is hereby declared an integral part of the present fundamental law.[1] Every arrest ordered or prolonged in violation of law imposes an obligation upon the state to indemnify the injured party.

ART. 9. The domicile is inviolable. The law of October 27, 1862 (*Reichsgesetzblatt,* No. 88), for the protection of the domicile is hereby declared an integral part of this fundamental law.[2]

ART. 10. The secrecy of letters shall not be violated; the

[1] This law contains the provisions regarding arrest, hearing, and bail.

[2] This law regulates the issuance and execution of orders for the search of houses.

seizure of letters, except in case of a legal arrest or search, shall take place only in time of war, or by virtue of a judicial order issued in conformity with the law.

ART. 11. The right of petition is free to everyone. Petitions under a collective name should emanate only from legally recognized corporations or associations.

ART. 12. Austrian citizens shall have the right to assemble together, and to form associations. The exercise of these rights is regulated by special laws.

ART. 13. Everyone shall have the right, within legal limits, freely to express his thoughts orally, in writing, through the press, or by pictorial representation.

The press shall not be placed under censorship, nor restrained by the system of licenses. Administrative prohibitions of the use of the mail are not applicable to matter printed within the country.

ART. 14. Full freedom of religion and of conscience is guaranteed to all. The enjoyment of civil and political rights is independent of religious belief; however, religious belief shall in no way interfere with the performance of civil duties.

No one shall be forced to perform any religious rite or to participate in any religious ceremony, except in so far as he is subject to another who has legal authority in this matter.

ART. 15. Every legally recognized church and religious society has the right publicly to exercise its religious worship; it regulates and administers its internal affairs independently, remains in possession and enjoyment of its establishments, institutions, and property held for religious, educational, and charitable purposes; but is subject, as other societies, to the general laws of the state.

ART. 16. Adherents of a religious confession not legally recognized are permitted to worship privately, in so far as their religious services are not illegal or contrary to public morals.

ART. 17. Science and its teaching shall be free. Every

citizen, whose capacity has been established in conformity with law, shall have the right to establish institutions of instruction and education, and to give instruction therein. Private instruction shall be subject to no such restriction. Religious instruction in the schools shall be left to the church or religious society to which the school is attached. The state shall have the right of superior direction and superintendence over the entire system of education and instruction.

ART. 18. Everyone shall be free to choose his occupation and to prepare himself for it in such place and in such manner as he may wish.

ART. 19. All the races of the state shall have equal rights, and each race shall have the inviolable right of maintaining and cultivating its nationality and language.

The state recognizes the equality of the various languages in the schools, public offices, and in public life.

In the countries populated by several races, the institutions of public instruction shall be so organized that each race may receive the necessary instruction in its own language, without being obliged to learn a second language.

ART. 20. A special law shall determine the right of the responsible governing power to suspend temporarily and in certain places the rights mentioned in Arts. 8, 9, 10, 12, and 13.

LAW ALTERING THE FUNDAMENTAL LAW OF FEBRUARY 26, 1861, CONCERNING IMPERIAL REPRESENTATION

(December 21, 1867)

SECTION 1. The Reichsrat is the common representative body of the kingdoms of Bohemia, Dalmatia, Galicia and Lodomeria with the Grand Duchy of Cracow, of the Archduchies of Lower and Upper Austria, of the Duchies of Salzburg, Styria, Carinthia, Carniola, and Bukowina, of the

Margravate of Moravia, of the Duchy of Upper and Lower Silesia, of the Princely County of Tyrol and the territory of Vorarlberg, of the Margravate of Istria, of the Princely County of Goerz and Gradiska, and of the City of Triest with its territory. The Reichsrat is composed of a House of Lords (*Herrenhaus*) and a House of Representatives (*Haus der Abgeordneten*).

Persons appointed members of the House of Lords in conformity with secs. 3 and 5 may be elected to the House of Representatives. In case of the acceptance of such an election, the membership in the House of Lords ceases for the period during which such office is held.[1]

Should a representative be appointed to the House of Lords in conformity with secs. 3 or 5, his membership therein shall not begin until after he ceases to be a representative.[2]

SEC. 2. Princes of the imperial family who have attained full age are by birth members of the House of Lords.

SEC. 3. Chiefs of the indigenous noble families, of full age, who possess extensive landed property within the Austrian states, are hereditary members of the House of Lords, if such dignity has been conferred upon them by the Emperor.

SEC. 4. All archbishops and all bishops enjoying princely rank, within the Austrian states, shall be members of the House of Lords by virtue of their high ecclesiastical rank.

SEC. 5. The Emperor shall have the right to call into the House of Lords as life members eminent men from the kingdoms and countries represented in the Reichsrat, who have rendered distinguished services to the state or church, to science or art.

[The number of such members shall not exceed 170 nor fall below 150.[3]]

SEC. 6. The House of Representatives shall be composed

[1] As amended January 26, 1907.

[2] As amended January 26, 1907.

[3] Added by amendment of January 26, 1907.

of 516 members, apportioned to and elected in the several kingdoms and countries as follows:

Kingdom of Bohemia	130
Kingdom of Dalmatia	11
Kingdom of Galicia and Lodomeria with the Grand Duchy of Cracow	106
Archduchy of Lower Austria	64
Archduchy of Upper Austria	22
Duchy of Salzburg	7
Duchy of Styria	30
Duchy of Carinthia	10
Duchy of Carniola	12
Duchy of Bukowina	14
Margravate of Moravia	49
Duchy of Upper and Lower Silesia	15
Princely County of Tyrol	25
Territory of Vorarlberg	4
Margravate of Istria	6
Princely County of Goerz and Gradiska	6
City of Triest and its territory	5

The apportionment to the several election districts of the members of the House of Representatives, to be chosen in accordance with this list, shall be determined by the election law of the Reichsrat.[4]

SEC. 7. Every male person who has attained the age of twenty-four years, possesses Austrian citizenship, is not excluded from the right to vote by the provisions of the election law of the Reichsrat, and who at the time the election is ordered has resided for at least one year in the Austrian commune in which the right to vote is to be exercised, is qualified to vote for representatives.

Every male person who has been in the possession of

[4] This section was amended on January 26, 1907, increasing the membership of the House of Representatives from 425.

Austrian citizenship for at least three years, has attained the age of thirty years, and is not excluded from the right to vote by the provisions of the election law of the Reichsrat, is eligible as a representative.

In case the election law of the Reichsrat should provide for the election of substitutes of representatives, the foregoing provisions concerning eligibility are also applicable to such substitutes.

The election law of the Reichsrat contains the further regulations concerning the exercise of the right to vote and concerning the conduct of elections.[5]

SEC. 8. Public officers and functionaries who may be elected to the House of Representatives do not need a leave of absence in order to attend the meetings of that body.

SEC. 9. The Emperor appoints the president and vice-president of the House of Lords, from among its members, and for the term of the session. The House of Representatives elects from its own members its president and vice-president. Each of the houses chooses its other officers.

SEC. 10. The Reichsrat shall be convened annually by the Emperor, during the winter months when possible.

[5] The text here given is that introduced by amendment of January 26, 1907. Before this change there were five classes of electors: (1) The great land owners, comprising those who paid a certain land tax, varying in the several provinces from 50 to 250 florins; this class elected 85 representatives. (2) The cities, where the electoral franchise was extended to all males of twenty-four who paid a tax of 5 florins; this class elected 99 representatives. (3) Chambers of commerce and of industry; this class alone elected 21 representatives and together with the second class chose 19 others. (4) Rural communes, in which the qualifications for voting were the same as in the cities; this class elected 129 representatives. (5) A fifth class created by law of June 14, 1896, included all males who had attained the age of twenty-four years; this class chose 72 representatives.

The amendment of 1907 abolishes the class system of voting, and establishes universal suffrage for all representatives. The election law of the Reichsrat of January 26, 1907, makes the further provisions for elections under the new system of universal suffrage; each province is divided into election districts, most of which choose only one representative; each commune forms a voting precinct.

SEC. 11. The competence of the Reichsrat extends to all matters which relate to the rights, obligations, and interests common to the countries represented therein, in so far as these matters are not to be handled in common, in consequence of the agreement of the countries of the Hungarian crown with the other countries of the monarchy.

Thus, the competence of the Reichsrat extends to:

a) The examination and approval of commercial treaties and of those political treaties which place a financial burden upon the empire or upon any part thereof, which place obligations upon individual citizens, or which have as a consequence a change of the territory of the kingdoms and countries represented in the Reichsrat.

b) All matters which relate to the form as well as to the regulation and term of military service; particularly the annual grant of military forces, and the general provisions regarding the furnishing of relays, and the maintenance and quartering of troops.

c) The establishment of the budget, and particularly the annual grant of taxes and duties to be levied; the examination of the accounts and of the results of the financial administration, the final approval of such accounts; the issue of new loans, the conversion of the existing state debt, the alienation, transformation, or burdening of the public domain; legislation concerning monopolies and seigniorial rights, and in general all financial affairs which are common to the kingdoms and countries represented in the Reichsrat.

d) The regulation of the monetary system and of banks of issue, of customs and commercial affairs, of the telegraph, post, railways, navigation, and of other means of communication within the empire.

e) Legislation concerning credit, banks, patents of inventions, industry, with the exception of legislation concerning the monopoly of liquor; weights and measures, the protection of trade marks and of industrial models.

f) Legislation concerning public health, and for protection against epidemics and epizootics.

g) Legislation concerning citizenship and domicile, the police control of foreigners, the system of passports, and the taking of the census.

h) Concerning confessional relations, the rights of assembly and of association; concerning the press and the protection of literary and artistic property.

i) The establishment of the principles of the educational system in the primary and secondary schools, and legislation concerning the universities.

k) Legislation concerning criminal justice and police penalties; the civil law, with the exception of legislation concerning the details of the systems of public registries and concerning such matters as, in the terms of the provincial constitutions and of this fundamental law, belong within the competence of the provincial diets; legislation concerning commercial law and commercial paper, maritime law, mines, and feudal rights.

l) Legislation concerning the principles of the judicial and administrative organization.

m) The laws to be passed in execution of the fundamental laws concerning the general rights of citizens, the imperial court, the judicial power, and the administrative and executive power.

n) Legislation concerning the matters which relate to the duties and relations of the particular countries among themselves.

o) Legislation concerning the manner of handling matters which, through the agreement with Hungary, are recognized as common to the two parts of the empire.

SEC. 12. All matters of legislation other than those expressly reserved to the Reichsrat by the present law, belong within the power of the Provincial Diets of the kingdoms and

countries represented in the Reichsrat and are constitutionally regulated by such Diets.[6]

[In matters which, according to the principles of the provincial constitutions and of this fundamental law, belong within the competence of provincial legislation, the provinces in the regulation of such affairs may also adopt necessary measures in the fields of criminal justice, police justice, and civil law.[7]]

[Within the field of provincial legislation belongs also the regulation of the organization of public administrative offices which are created by the exercise of the power of provincial legislation to organize autonomous administrative departments, the activities of which are based upon the principles reserved to imperial legislation by sec. 11, *l*) of this fundamental law.[8]]

However, should a Provincial Diet decide that a matter committed to it ought to be discussed and decided in the Reichsrat, such matter, for this particular case and with reference to this Diet, shall come within the power of the Reichsrat.

SEC. 13. Projects of laws may be submitted to the Reichsrat by the government. The Reichsrat shall also have the right to propose laws upon matters within its competence.

Every law requires the agreement of the two houses and the approval of the Emperor.

[6] The seventeen divisions of the empire form fifteen provincial governments, the City of Triest, the County of Goerz and Gradiska, and the Margravate of Istria being combined into a division called Coastland. Each division establishes its own *Landesordnung* or provincial constitution; each has a provincial diet, which exercises the legislative power, and a provincial committee which exercises the executive power in local affairs. The Emperor convenes the diets annually, appoints their presidents, and may dissolve them at any time; every provincial law requires his approval. The principal executive and administrative officer of the province is the *Statthalter* or *Landespräsident*, who is appointed by the crown and is independent of local control.

[7] Added by law of January 26, 1907.

[8] Added by law of January 26, 1907.

If it should happen that, in certain items of an appropriation act or with reference to the size of the contingent, in a recruiting act, no agreement can be reached between the two houses after repeated deliberation, the lowest figure shall be considered as granted.

SEC. 14. If urgent circumstances should render necessary some measure constitutionally requiring the consent of the Reichsrat, when that body is not in session, such measure may be taken by imperial ordinance, issued under the collective responsibility of the ministry, provided it makes no alteration of the fundamental law, imposes no lasting burden upon the public treasury, and alienates none of the domain of the state. Such ordinances shall have provisionally the force of law, if they are signed by all of the ministers, and shall be published with an express reference to this provision of the fundamental law.

The legal force of such an ordinance shall cease if the government neglects to present it for the approval of the Reichsrat at its next succeeding session, and indeed first to the House of Representatives, within four weeks after its convention, or if one of the two houses refuses its approval thereto.

The ministry shall be collectively responsible for the withdrawal of such ordinances as soon as they have lost their provisional legal force.

SEC. 15. For the validity of any decision of the Reichsrat there is necessary in the House of Representatives the presence of one hundred members, in the House of Lords, of forty members, and in each house the vote of a majority of those present.

Modifications in the present fundamental law and in the fundamental laws on the general rights of Austrian citizens, on the establishment of the imperial court, on the judicial power, and on the exercise of administrative and executive power, shall be made only by a majority of not less than two-

thirds of the members present [and with the presence of not less than half of the members of the House of Representatives[9]].

SEC. 16. Members of the House of Representatives shall receive no instructions from their electors.

Members of the Reichsrat shall not be held responsible on account of any vote given, and for any utterances made by them in the exercise of their office they may be held responsible only by the house to which they belong.

No member of the Reichsrat shall be arrested or proceeded against judicially during the time of a session, on account of any criminal act, without the consent of the House, unless he were apprehended in the very act.

Even when the member is taken in the very act, the court shall give immediate notice of the arrest to the president of the House.

If the House requires it, the arrest must be suspended or the proceedings postponed during the session. The House shall have the same right with respect to an arrest or judicial proceeding instituted against a member when the Reichsrat is not in session.

SEC. 17. All members of the Reichsrat must personally exercise their right to vote.

SEC. 18. Members of the House of Representatives are elected for a period of six years.[10]

At the expiration of this period, as also in the case of the dissolution of the House of Representatives, a new election shall be held.

The retiring representatives shall be elegible for re-election.

During the intervals between general elections supplementary elections shall be held when a member ceases to be eligible, dies, resigns, or for any other legal reason ceases to

[9] As amended April 2, 1873.

[10] As amended April 2, 1873. By the original text no limitation was placed upon the life of the Reichsrat, which came to an end only by dissolution.

be a member of the Reichsrat, in case a substitute should not have been elected for such representative. In the latter case the election law of the Reischrat shall contain provisions concerning the management of the new election.[11]

SEC. 19. The adjournment of the Reichsrat or the dissolution of the House of Representatives shall take place by decree of the Emperor. In case of dissolution a new election shall be held in conformity with sec. 7.

SEC. 20. Ministers and chiefs of the central administration are entitled to take part in all deliberations, and to present their proposals personally or through representatives. Each house may require the presence of a minister. Ministers shall be heard whenever they desire. They shall have the right to vote only when they are members of one of the houses.

SEC. 21. Each of the two houses of the Reichsrat may interpellate the ministers upon all the matters within the scope of their powers, may investigate the administrative acts of the government, demand information from the ministers concerning petitions presented to the houses, may appoint commissions, to which the ministers shall give all necessary information, and may give expression to its views in the form of addresses or resolutions.

SEC. 22. A special law shall provide how the control of the public debt shall be exercised by the representative bodies.

SEC. 23. The sessions of both houses of the Reichsrat shall be public.

Each house shall have the right, in exceptional cases, to exclude the public, upon the demand of the president or of at least ten members, by a decision taken behind closed doors.

SEC. 24. The law regarding the order of business of the Reichsrat shall contain detailed provisions concerning the reciprocal and external relations ot the two houses.

[11] As amended January 26, 1907.

FUNDAMENTAL LAW CONCERNING THE ESTABLISHMENT OF AN IMPERIAL COURT (*REICHSGERICHT*)

(December 21, 1867)

ARTICLE 1. For the decision of conflicts of jurisdiction and of disputed questions of public law an Imperial Court (*Reichsgericht*) shall be established for the kingdoms and countries represented in the Reichsrat.[1]

ART. 2. The Imperial Court shall decide finally concerning conflicts of jurisdiction:

a) Between the judicial and the administrative authorities, concerning the question whether a matter should be decided judicially or by administrative procedure, in the cases determined by law.

b) Between the Provincial Diet of a particular country and the higher governmental authorities, when each of them claims the right to regulate or to decide an administrative matter.

c) Between the independent public authorities of the several countries in the affairs of which they have the direction and administration.

ART. 3. The Imperial Court shall also decide finally:

a) Concerning claims of a particular kingdom or country against the empire, and vice versa; claims of one of the kingdoms or countries against another; claims of a commune, corporation, or individual against any one of the kingdoms or countries or against the empire, if such claims cannot be decided by the regular courts.

b) Concerning complaints of citizens on account of the violation of political rights guaranteed to them by the constitution, after the matter shall have been the object of an administrative decision, in accordance with the law.

[1] By a decision of January 20, 1897, the Imperial Court held that it was not competent to decide controversies between the legislature and the executive authorities.

ART. 4. Concerning the question whether the decision of a particular case is within its jurisdiction, the Imperial Court alone decides; its decisions exclude any further appeal or judicial proceedings.

If a matter is referred by the Imperial Court to a regular court or to an administrative authority, the latter cannot refuse to decide such a matter on the ground of incompetence.

ART. 5. The Imperial Court shall sit at Vienna, and shall be composed of a president and president-substitute, appointed by the Emperor for life, and of twelve members and four substitutes, also appointed for life by the Emperor, upon the nomination of the Reichsrat; six members and two substitutes shall be nominated by each house.

The nominations should be made in such a way that there shall be three properly qualified candidates for each place to be filled.

ART. 6. A special law shall determine the detailed provisions concerning the organization of the Imperial Court, its procedure, and the execution of its decisions and orders.[2]

FUNDAMENTAL LAW CONCERNING THE JUDICIAL POWER

(December 21, 1867)

ARTICLE 1. All judicial power of the state shall be exercised in the name of the Emperor.

Judgments and sentences shall be executed in the name of the Emperor.

ART. 2. The organization and jurisdiction of courts shall be established by law.

Special tribunals may be established only in the cases previously determined by law.

ART. 3. The jurisdiction of military courts shall be determined by special law.

[2] The Imperial Court was organized by a law of April 18, 1869.

ART. 4. The jurisdiction with reference to violations of the police and tax laws shall be regulated by law.

ART. 5. The judges shall be appointed for life by the Emperor or in his name.

ART. 6. The judges shall be independent in the execution of their judicial office.

They shall be deprived of their office only in the cases provided by law, and by virtue of a formal judicial sentence; they shall be suspended only by the order of the president of the court or of a higher judicial officer, the matter being at the same time referred to the proper court; the transfer of a judge to another place or his retirement against his will shall take place only by judicial decision in the cases and in the manner provided by law.

However, these provisions do not apply to displacements or retirements which are made necessary by changes in the judicial organization.

ART. 7. The courts shall not have power to decide as to the validity of laws properly promulgated. However, the courts may determine the validity of ordinances (*Verordnungen*) which are involved in cases before them.

ART. 8. All judicial officers, in taking the oath of office, shall swear to an inviolable observance of the fundamental laws.

ART. 9. Independently of the other means provided by the judicial procedure, an action may be brought against the state or its judicial officers, because of wrongs committed by the latter in the exercise of their functions. This right of action shall be regulated by a special law.

ART. 10. Proceedings before the judges in civil and criminal cases shall be oral and public.

Exceptions to this rule shall be determined by law. In criminal proceedings the system of public prosecution shall be in force.

ART. 11. For all offenses punished by severe penalties,

which shall be determined by law, as well as for all political crimes and misdemeanors and offenses committed by the press, a jury shall decide concerning the guilt of the accused.

ART. 12. The Supreme Court of Justice and Cassation sitting at Vienna shall be maintained for all of the kingdoms and countries represented in the Reichsrat.

ART. 13. The Emperor shall have the right of amnesty; he shall also have the right to remit or to reduce the penalties imposed by the courts as well as to relieve the convicted person of the legal consequences of his condemnation, with a reservation of the restrictions contained in the law concerning ministerial responsibility.

It is reserved to the law of criminal procedure to provide a legal rule as to the cases in which a punishable act shall not be subject to a criminal proceeding, and that a trial begun in such a case shall be discontinued.

ART. 14. Justice shall be separated from administration in every case.

ART. 15. In every case where an administrative authority, under present or future laws, has to decide a contest between individuals, the party injured in his rights by such decision shall be free to proceed against the other party in the regular courts.

Moreover, if anyone asserts that through a decision or order of an administrative authority his rights have been violated, he shall have the right to make his claim against a representative of the administrative authority, before the administrative court in public oral procedure.

The cases in which the administrative court shall have jurisdiction, the composition of the court, and the procedure therein, shall be regulated by a special law.

FUNDAMENTAL LAW CONCERNING THE EXERCISE OF ADMINISTRATIVE AND EXECUTIVE POWER

(December 21, 1867)

ARTICLE 1. The Emperor is sacred, inviolable, and irresponsible.

ART. 2. The Emperor shall exercise governmental power through responsible ministers, and officers and agents subordinate to them.

ART. 3. The Emperor shall appoint and dismiss ministers, and upon the proposal of the respective ministers, appoint all officers in all branches of the public service, in so far as the law does not otherwise provide.

ART. 4. The Emperor shall confer titles, orders, and other public distinctions.

ART. 5. The Emperor shall have supreme command of the armed force, shall declare war, and conclude peace.

ART. 6. The Emperor shall conclude political treaties. The consent of the Reichsrat is necessary for the validity of any treaties of commerce or political treaties which impose obligations upon the empire, upon any part thereof, or upon any of its citizens.

ART. 7. The right to coin money shall be exercised in the name of the Emperor.

ART. 8. Before assuming the government, the Emperor shall take a solemn oath in the presence of both houses of the Reichsrat:

> To maintain inviolable the fundamental laws of the kingdoms and countries represented in the Reichsrat, and to govern in conformity with them, and in conformity with the laws in general.

ART. 9. The ministers shall be responsible for the constitutionality and legality of governmental acts done within the sphere of their powers.

This responsibility, the organization of a court to try

impeachments of ministers, and the procedure to be observed in such a court shall be regulated by a special law.

ART. 10. The publication of the laws shall take place in the name of the Emperor with a note of their passage by the representative bodies, in the constitutional manner, and under the signature of a responsible minister.

ART. 11. The public authorities are empowered, within the sphere of their respective duties, to issue decrees and orders in execution of the laws, and to enforce the observance of such regulations and of the laws by all those to whom they are applicable.

Special laws shall regulate the powers of the administrative authorities, and the powers of the armed force which is permanently organized or called out in a particular case for the maintenance of public safety, peace, and order.

ART. 12. All the officers of the state shall be responsible for the observance of the fundamental laws and of the imperial and provincial laws, in the performance of their official duties.

To make such responsibility effective it shall be the duty of the organs of the executive power to exercise a disciplinary control over the above-mentioned public officials.

The civil liability of public officers for injury caused by illegal use of their powers shall be regulated by law.

ART. 13. All members of the public administration, in their oath of office, shall swear to an inviolable observance of the fundamental laws.

HUNGARY

The constitutional development of Hungary has frequently been compared with that of England; the parallel holds with respect to the character of their constitutional laws, for in Hungary as in England the constitution is not embodied in any one instrument, but is contained in numerous laws which may be altered by the regular legislative processes; however, in Hungary the constitution has been embodied in written laws to a much greater extent than in England.

The most important of the earlier constitutional documents of Hungary is the *Bulla Aurea* of Andreas II, which was issued in 1222, and which bears a striking resemblance to the English *Magna Carta* of 1215. *Bulla Aurea* is now only of historical interest, but is of importance as one of the first steps in a long and continuous constitutional development.

Ferdinand I of Austria was chosen king of Hungary in 1526, after the Hungarian forces had been signally defeated by the Turks at the battle of Mohács. The Hapsburgs constantly endeavored to reduce Hungary to the position of a province of the empire, and to abolish its independent national institutions. However, by the Pragmatic Sanction, which was embodied in three Hungarian laws of 1722–23, the rights of Hungary were guaranteed.

Notwithstanding the guaranty of Hungarian institutions the efforts to weaken or destroy them continued. Under Joseph II separate Hungarian institutions were almost completely ignored. In 1791, however, Leopold II approved Hungarian laws which undid all of the attempted reforms of Joseph. From 1791 to 1848 the development of Hungarian institutions was intermittent; from 1815 to 1825 the Diet was not summoned at all. After 1830 the liberal movement began to gain ground, and from 1832 to 1836 the Diet made many efforts to abolish the mediaeval political and social organization of the country; these efforts proved fruitless because of the opposition of the members of the Table of Magnates, whose privileges would be lessened by

any change. Reform measures were again rejected by the Magnates in the Diets of 1839 and 1842. But popular forces were gaining strength, and the increased national spirit of the Hungarians is shown by the fact that by 1844 Magyar had entirely displaced Latin as the official language.

The revolutionary movement of 1848 enabled the liberal members of the Diet to carry their measures. Thirty-one laws, embodying among other things the Hungarian demands for a separate responsible ministry and for annual sessions of the Diet, were enacted and were approved by the Emperor on April 11, 1848. Under these laws Hungary became practically independent, united with Austria by a personal union. When the army began to obtain control of the revolutionary forces of the empire, the Emperor sought an excuse to break with the Hungarian government. Kossuth, now in control of Hungarian affairs, was also eager for a rupture; hostilities commenced, and after Austrian troops had been driven from Hungarian territory, independence of Austria was declared. The Austrian troops proved unequal to the task of subduing the Hungarians; Russian forces were sent to their aid, and the Hungarian revolution terminated with the surrender at Vilagos on August 13, 1849.

After Vilagos Hungary was governed for ten years as a subject province; not until after the Italian war was any change made in its position. The Diploma of October 20, 1860, recognized the rights of the Hungarian Diet, but the Patent of February 26, 1861, established a central legislature at Vienna. Hungary refused to join in such a legislature or to be content with any arrangement which should not give her absolute control over her local affairs. For nearly five years the experiment of a central imperial legislature was tried, but it was seen to be a failure. In 1865 negotiations were entered into upon the basis of Hungary's right to an independent government, and the agreement of 1867 guarantees the "laws, constitution, legal independence, freedom, and territorial integrity of Hungary and its subordinate countries." The laws of 1848 again came into full force, and the parliamentary institutions of the country were re-established upon a firm basis.

Under the terms of the agreement of 1867 Hungary was left to deal as it thought best with the races within its territory.

With Croatia alone did Hungary find it necessary to make special terms. By a law of 1868, wich has been several times amended, an arrangement was made between Hungary and Croatia similar in many respects to that between Austria and Hungary.

SELECT BIBLIOGRAPHY

STEINBACH, GUSTAV. *Die ungarischen Verfassungsgesetze.* (3d ed., Vienna, 1900. Manz'sche Taschenausgabe der oesterreichischen Gesetze.) Contains all Hungarian constitutional laws now in force. A fourth edition has recently appeared.

BERTHA, A. DE. *La constitution hongroise.* Précis historique d'après le Dr. Samuel Radó. (Paris, 1898.) A good historical outline, based upon the German work of Radó-Rothfeld, *Die ungarische Verfassung, geschichtlich dargestellt* (Berlin, 1898).

BERTHA, A. DE. *La Hongrie moderne de 1849 à 1901.* Étude historique. (Paris, 1901.) A good account of recent constitutional development.

APPONYI, ALBERT. *Le parlement de la Hongrie.* (Annuaire du Parlement, 4e année, Paris, 1902, pp. 864–958.) An interesting study by the then president of the Hungarian House of Representatives.

VIROZSIL, ANTON V. *Das Staats-Recht des Königreichs Ungarn.* (Pest, 1865–66. 3 vols.)

HANTOS, ELEMÉR. *The Magna Carta of the English and of the Hungarian Constitution.* (London, 1904.) A comparative study of *Bulla Aurea* and *Magna Carta.*

HORN, M. G. *Le compromis de 1868 entre la Hongrie et la Croatie.* (Paris, 1907.)

SCHULER-LIBLOY, FRIEDRICH. *Das ungarische Staatsrecht.* (Vienna, 1870.) Somewhat out of date, but still useful as a brief study.

The only comprehensive treatises on Hungarian constitutional law are in Magyar; of these the most important are those by Karoly Kméty (3d ed., Budapest, 1905), and by Ferenz Nagy (4th ed., Budapest).

LAW 3 OF 1848 CONCERNING THE FORMATION OF A RESPONSIBLE HUNGARIAN MINISTRY[1]

SECTION 1. The person of His Majesty the King is sacred and inviolable.

[1] Secs. 2, 9, 11, and 38 of this law were repealed and secs. 3, 17, 19, and 24 were modified by Law 7 of 1867, which suspended the office of Palatin. Art. 8 related to military affairs which are now conducted by the joint Austro-Hungarian government.

SEC. 3. His Majesty shall exercise the executive power in conformity with law, through the independent Hungarian ministry, and no ordinance, order, decision, or appointment shall have force unless it is countersigned by one of the ministers residing at Budapest.

SEC. 4. Each member of the ministry shall be responsible for all of his official actions.

SEC. 5. The official seat of the ministry is Budapest.

SEC. 6. In all matters which have heretofore been within the power of the Royal Hungarian Chancellery, of the Royal Council of the Regency, and of the Royal Council of the Treasury, including therein mining, and especially in all civil, ecclesiastical, financial, and military affairs, and in general in all matters relating to national defense, His Majesty shall henceforth exercise the executive power exclusively through the Hungarian ministry.

SEC. 7. It shall be within the immediate power of His Majesty, in every case with the countersignature of the proper responsible Hungarian minister, to appoint archbishops, bishops, priors, and abbots as well as standard-bearers, to exercise executive clemency, to grant noble rank, titles, and orders.

SEC. 10. The ministry shall be composed of a president and of eight other ministers, if the president does not himself assume one of the portfolios.

SEC. 12. His Majesty shall appoint the ministers upon the nomination of the president of the ministry.[2]

SEC. 13. One of the ministers shall always be in attendance upon the person of His Majesty, and shall take part in all affairs which are common to Hungary and the hereditary provinces, and in such affairs he shall, under his responsibility, represent Hungary.[3]

SEC. 14. Besides the member attached to the person of

[2] As amended by Law 8 of 1867.

[3] Affairs common to the two countries are now handled by the joint ministry.

the King for the affairs mentioned in sec. 13, the ministry shall be divided into the following departments:

a) Interior.
b) Finance.
c) Commerce.
d) Agriculture.
e) Religion and education.
f) Justice and pardons.
g) National defense.[4]

SEC. 15. A separate minister shall be at the head of each department and of the official personnel thereof, which shall be under the direction of the respective chiefs of divisions.

SEC. 16. The manner of conducting business within the departments shall be regulated by the ministry itself.

SEC. 17. The president of the ministry shall preside over the Council of Ministers in the absence of the King, and he may convene the Council of Ministers as often as he considers it necessary.

SEC. 18. Each minister shall be responsible for the orders which he signs.

SEC. 19. For the consideration of the public affairs of the country under the presidency of His Majesty or of the president of the ministry, a Council of State shall be established at Budapest, which shall be permanently organized by the next Diet.[5]

SEC. 20. In addition to the necessary staff of officers, two councilors of state shall be assigned to the minister in attendance upon the person of the King, such councilors to be selected for the present from among the active councilors of

[4] For the representation of the interests of Croatia-Slavonia-Dalmatia, there is also appointed a separate Croatian minister who is without portfolio. This minister is entitled to vote in the Council of Ministers and is responsible to the Hungarian House of Representatives.

[5] The Council of State has never been organized; hence Arts. 19–24 are not really in force.

the Royal Hungarian Chancellery upon the nomination of the above-mentioned minister.

SEC. 21. The affairs enumerated in sec. 7 as reserved immediately to His Majesty shall be administered by the responsible Hungarian minister in attendance upon the person of the King, together with the councilors of state and officers associated with him.

SEC. 22. The other active councilors of the Royal Hungarian Chancellery shall be transferred to the Council of State mentioned in sec. 19.

SEC. 23. The Royal Hungarian Council of the Regency, and the Royal Council of the Treasury shall be divided among the respective departments of the ministry in pursuance of the provisions of Law 58 of 1791, which shall also be taken into consideration in the organization of the Council of State.

SEC. 24. The presidents of the government offices mentioned in sec. 6 shall have seats in the Council of State designated by sec. 19, and shall preside therein in the absence of the King and the ministers.

SEC. 25. All officers and employees of the government offices mentioned in sec. 6, not only those who receive new appointments but also those who cannot be given places in the above-mentioned departments of the ministry, shall retain their present salaries until other provision is made.

SEC. 26. The legal powers of all local governing bodies of the country shall remain in full force.

SEC. 27. The legally established courts shall preserve their legal independence and shall retain their present organization until further provided by law.

SEC. 28. The ministers shall have seats in the two houses of the Diet and must be heard therein when they wish to speak.

SEC. 29. Ministers shall be bound to attend in either house of the Diet when requested, and to give proper explanations.

SEC. 30. Upon demand of either house of the Diet the ministers shall be bound to submit their official papers for

examination by the house itself or by a committee appointed by the house.

SEC. 31. Ministers shall have a vote in the Diet only in case they are legal members of the Table of Magnates or have been elected as representatives in the House of Representatives.

SEC. 32. Ministers may be held responsible:

a) For every act committed or order executed by them in their official capacity which violates the independence of the country, the guaranties of the constitution, the provisions of existing laws, personal liberty, or the inviolability of property.

b) For misapplication or illegal use of money or other property intrusted to them.

c) For failure to execute the laws or to maintain public peace and order, in so far as such neglect could have been avoided by the use of means placed at their disposal by the law.

SEC. 33. The Lower House may impeach ministers by a majority vote.

SEC. 34. Jurisdiction in such a case shall be vested in a court, chosen by means of secret ballot by the Upper House from among its own members; the procedure shall be public, and the penalty shall be fixed in proportion to the offense.

Thirty-six members in all shall be elected, of whom twelve may be rejected by the impeachment commission of the Lower House, twelve by the ministers under impeachment. The court thus composed of twelve persons shall try the impeached ministers.

SEC. 35. With respect to a convicted minister royal pardon may be granted only in case of a general amnesty.

SEC. 36. For other criminal offenses committed by ministers in an unofficial capacity, they shall be amenable to the ordinary laws.

SEC. 37. The ministry is bound to submit to the Lower House for its examination and approval an annual statement of the income and needs of the country, and the account of the income administered by it during the past year.

LAW 4 OF 1848 CONCERNING ANNUAL SESSIONS OF THE DIET

SECTION 1. As the Diet will in future hold annual sessions at Pest, the King shall annually assemble the Estates of the country, and whenever circumstances permit, during the winter months.

SEC. 2. Hereafter the laws to be promulgated may also be approved by the King during the course of the annual session.

SEC. 3. Representatives shall be elected to a Diet to continue for five years, and for all five sessions of such a Diet.[1]

SEC. 4. After 1848 the new election of representatives shall take place throughout the country at the expiration of each fifth year, within six weeks before the opening of the first annual session of the new Diet; members elected during the interval between general elections retain their seats in the next Diet only by means of a new election and so retain them for each of the five annual sessions of a Diet.[1]

SEC. 5. His Majesty shall have the right to extend or to adjourn the assembled annual session and even to dissolve the Diet before the expiration of five years, and in such a case to order a new election of representatives; but in the latter case His Majesty shall order the meeting of the new Diet in such a manner that it shall assemble within three months after the dissolution of the former Diet.[1]

SEC. 6. As the establishment of the budget by the Diet is always effective for only one year and as no tax may be imposed or collected without a new establishment and grant, in case His Majesty for any reason shall dissolve the Diet before the regular time, adjourn or close its sessions before the ministry has submitted the final accounts and the estimates for the next year, and before the Diet could reach a decision concerning these matters, the Diet must be convened before the

[1] Law 1 of 1886 extended the life of a Diet from three to five years.

end of the year and within sufficient time for the final accounts and the estimates for the succeeding year to be considered therein before the close of the year.

SEC. 7. His Majesty shall appoint the president and vice-president of the Table of Magnates from the members of that house; the secretaries shall be elected by the house from among its own members, by secret ballot.

SEC. 8. As the Royal Table [2] henceforth ceases to be an integral part of the House of Representatives, this house shall elect from among its own members, by secret ballot, a president, two vice-presidents, and the secretaries.

The presidents of the two houses shall be chosen for the entire legislative period of the Diet; the other officials shall be chosen annually in the first sitting; in such sitting the oldest member of the Diet shall preside.

SEC. 9. The presidents of the two houses shall receive salaries from the public treasury, the amount of which shall be fixed in the first annual session of the new Diet.

SEC. 10. The sittings of the two houses shall continue to be public. Each house shall make the regulations for the maintenance of the necessary peace and order in its deliberations, and of silence among those listening to its proceedings; the president is charged with the strict enforcement of such rules.

SEC. 11. In this regard it is hereby provisionally directed that the audience shall in no way disturb the deliberations.

SEC. 12. Should the audience or one of the persons present disturb the deliberations and the first warning of the president be without effect, the president may upon the second occasion, referring to the present law, order the expulsion of the audience or of a member thereof and the closing of the galleries.

SEC. 13. After this is done the deliberations shall be continued upon the same day or later, as the majority decides, but always publicly.

[2] The Supreme Court of Hungary, which before 1848 formed part of the House of Representatives, its president presiding in that body.

SEC. 14. Peace and order shall be maintained by sergeants-at-arms, with the assistance of the national guard, if necessary.

SEC. 15. In addition to the regulations contained in the foregoing sections, each house shall, in its first annual session, immediately adopt an order of business, in which the manner and form of deliberating and of voting and in general the internal affairs of the house shall be regulated. The part of this order of business which relates particularly to the order of deliberating may be altered only at the end of the annual session, after the close of the consideration of bills.

LAW 7 OF 1885 ALTERING THE ORGANIZATION OF THE TABLE OF MAGNATES [1]

CHAPTER I. THE ORGANIZATION OF THE TABLE OF MAGNATES

SECTION 1. Members of the Table of Magnates shall be those who have the right to sit and vote therein by virtue of:

a) Hereditary right.

b) Of their high rank or office.

c) Of their appointment for life by His Majesty the King.

d) Of election by the Diet of Croatia-Slavonia [2] in accordance with Law 15 of 1881.

SEC. 2. By virtue of hereditary right the following shall be members of the Table of Magnates:

a) The archdukes of the royal family, who are of full age.

b) All male members, of twenty-four years of age, of families which have heretofore had the right of membership in the Hungarian Table of Magnates or which had received from the Hungarian King the title of count or baron in

[1] Chaps. 2, 3, and 4 of this law are omitted; they contain provisions regarding the appointment of officers, order of business, and other matters of less importance.

[2] Croatia-Slavonia elects three members of the Table of Magnates.

Transylvania before the union of that principality with Hungary, if they alone or together with the wives and minor children living in a common household with them, possess and enjoy or have a life interest or a family interest in trust in real estate within Hungarian territory, assessed upon the new cadaster of 1885 for the direct national land tax to an amount of not less than three thousand florins Austrian value, including therein the house taxes upon residences and industrial establishments attached to such real property.

With reference to families of magnates whose members, besides their rights in the Hungarian Upper House, have by birth or in some other manner a seat and vote in the legislature of another state of the monarchy or of any other country, it is provided that if they possess the property qualification mentioned in clause *b*) of this paragraph by virtue of their real property located in Hungarian territory, their rights in the Hungarian Upper House shall not be exercised unless they deliver once for all to the president of the Royal Hungarian Ministry a declaration that they for themselves will exercise such right only in the Hungarian Upper House; this declaration shall be made within six months after the completion of the twenty-fourth year, and if such age has already been reached, before the first of July, 1885.

The president of the Ministry shall transmit this declaration to the president of the Table of Magnates within eight days after its receipt, if the Diet is in session, and if it is not in session, within eight days after its assembling.

c) Hungarian citizens by birth and their legitimate male descendants in a direct line, upon whom His Majesty, upon the proposal of the Council of Ministers, has especially conferred the right of hereditary membership in the Table of Magnates, in addition to the corresponding title (duke, count, or baron).

Hungarian citizens who are not such by birth may be granted membership in the Upper House upon the proposal of the Council of Ministers only by means of legislation.

In either case the Council of Ministers may propose only Hungarian citizens of merit who have attained the age of twenty-four years, are of age, and possess the property qualifications provided by this section.

SEC. 3. If a member of one of the families designated in clauses *b*) and *c*) of sec. 2 does not possess the required property qualification or loses it later, his right shall cease from that time but shall be revived if he afterward regains this qualification.

In the latter case the right may be exercised in the session following the one in which the qualification is established.

SEC. 4. By virtue of their high rank or office, and during the continuance thereof the following shall be members of the Table of Magnates:

A. *a*) The standard-bearers of the kingdom and the Count of Pressburg.

b) The two curators of the crown.

c) The governor of Fiume.

d) The president and second president of the Supreme Court and the president of the Court of Appeals of Budapest.

B. Also by virtue of their high rank and of their offices the following shall be members of the Table of Magnates during the continuance of their ecclesiastical offices:

a) The Roman Catholic church dignitaries of the Latin and Greek rite in the lands of the Holy Hungarian crown, viz.: the prince primate of Hungary and the other archbishops, the bishops of dioceses and the likewise royally appointed suffragans of Belgrad and Tinnin (Knin), and finally the archabbot of Martinsberg, the superior of Jászó, and the prior of Auran.

b) The dignitaries of the Oriental Greek church: the Servian Patriarch, the Rumanian Metropolitan, and the bishops of dioceses.

c) The three senior bishops of the Evangelical Reformed church and of the Evangelical church of the Augsburg Con-

fession; the three senior superintendents of the Evangelical Reformed church, taking into account the religious district of Transylvania, especially the senior superintendent; the general inspector, and the two senior district inspectors of the Evangelical church of the Augsburg Confession; and finally one of the senior presidents, either bishop or superintendent, of the Unitarian church.

SEC. 5. Those whom His Majesty the King appoints, upon the proposal of the Council of Ministers, from among the citizens of all the countries of the Crown of St. Stephen, in recognition of merit and to increase the prestige of the Upper House thereby, shall be life members of the Table of Magnates.

As soon as the Upper House is organized in accordance with the present law, the number of members appointed for life shall not exceed thirty. In future such appointments shall take place gradually, and in no case shall more than five appointments be made in one year. The total number of life members shall never exceed fifty.

SEC. 6. The fact that a person is engaged in military service, is in the active performance of a civil or religious office, or is appointed to such a position, imposes no obstacle to the exercise of a right of membership in the Table of Magnates belonging to him, or to his being named a hereditary or life member thereof.

SEC. 7. Should new offices or positions of high rank be created or should new bishoprics or ecclesiastical districts be established by the religious confessions mentioned in sec. 4, such offices and positions shall not carry with them the right to a seat in the Table of Magnates, unless this is expressly provided by law.

SEC. 8. The members designated by sec. 1, clause *d*) shall have the right to take part in the deliberations and voting only with reference to the matters common to the countries and provinces of the Hungarian crown.

SEC. 9. Without prejudice to the provision of sec. 59 of Law 30 of 1868,[3] no person shall be a member of the Table of Magnates who does not satisfy the provisions of sec. 1 of Law 44 of 1868, according to which Magyar is the only language of legislation.

SEC. 10. Members of the Table of Magnates shall lose their membership in the following cases:

a) A member by virtue of his high rank or office, when he ceases to hold such office or position, because of voluntary resignation or of legal disciplinary or judicial proceedings.

b) A life member when his resignation is accepted by His Majesty, upon the proposal of the Council of Ministers.

c) A member elected by the Diet of Croatia-Slavonia, when his term of election expires.

d) Any member, without reference to the legal basis of his membership, who may be condemned by the regular courts to prison or to imprisonment at hard labor, or for a crime or misdemeanor committed for the purpose of gain, or who has lost his citizenship.

SEC. 11. The right is not lost but its exercise is suspended:

a) During the time for which a member has been condemned by the regular courts to a suspension of political rights on account of a crime or misdemeanor not coming within sec. 10, clause *d*).

b) During the period of bankruptcy, of those who become bankrupt.

c) During the continuance of guardianship, of those who have been placed under guardianship, except in cases of guardianship because of prodigality or absence.

d) For hereditary members, during the session in the course of which it is decided, in accordance with sec. 19 of this law, that they have lost the property qualification of membership.

[3] The law which permits the members from Croatia-Slavonia to use their own language in the Hungarian Diet.

SEC. 12. When a person, who is a member of the Table of Magnates by virtue of sec. 4, clause A or clause B, paragraphs *a*) and *b*), or of sec. 5, is elected a representative and accepts such election, he shall cease to be a member of the Table of Magnates; but as soon as the office of a representative is ended, those mentioned in sec. 4, clause B, paragraphs *a*) and *b*), shall at once regain their membership in the Table of Magnates and may exercise it in the next session. The other members of the Table of Magnates mentioned in this paragraph may recover their membership in accordance with secs. 4 and 5.

Should the ecclesiastical and lay dignitaries mentioned in sec. 4, clause B, paragraph *c*), be elected as representatives and accept such election, the senior one of their colleagues who is not already a member of the Upper House shall take the place and hold it, while he lives and fills the office, even though the person, whose place he occupies, ceases to be a representative.

Should a hereditary member of the Table of Magnates be elected a representative and accept such election, he shall not exercise his rights of membership in the Table of Magnates during the term of his office as representative, and should he resign the office of representative during the course of a session, his membership in the Table of Magnates does not revive until the following session.

Every member of the Table of Magnates who is elected a representative is bound, after the verification of his election, to inform the president of the Table of Magnates whether or not he has accepted such election; the president shall bring this information to the knowledge of the House.

LAW 5 OF 1848 CONCERNING THE ELECTION OF REPRESENTATIVES ON THE PRINCIPLE OF THE REPRESENTATIVE SYSTEM

SECTION 5. The House of Representatives shall consist of 453 members who shall enjoy equal voting power, and who

shall be elected in accordance with the apportionment made on the basis of population, territory, and economic conditions.[1]

The Diet of the kingdom of Croatia, Slavonia, and Dalmatia shall elect 40 representatives.[2]

LAW 33 OF 1874 CONCERNING THE MODIFICATION AND AMENDMENT OF LAW 5 OF 1848, AND OF THE TRANSYLVANIAN LAW 2 of 1848

CHAPTER I. QUALIFICATIONS OF VOTERS[1]

SECTION 1. With the exception of females, the right to vote in the election of representatives may be exercised by all native or naturalized citizens who have attained the age of twenty years, and who possess the qualifications mentioned in secs. 1 and 2 of Law 5 of 1848, and in secs. 3 and 4 of the Transylvanian Law 2 of 1848, and more particularly specified in the subsequent sections.

SEC. 2. In future the right to vote may no longer be exercised upon the basis of the privileges existing before the

[1] As amended to 1881. The remainder of this law has been repealed. Law 24 of 1901 provides that a member of the House of Representatives shall not occupy any office or accept any position which is dependent upon the nomination or appointment of the crown, the government or the organs of government, and which carries with it a salary or compensation. From this rule are excepted the royal Hungarian ministers, undersecretaries of state, and occupants of some other less important positions.

[2] The Croatian members sit in the Hungarian Diet only for the consideration of matters common to Hungary and Croatia; these matters are principally finance, defense, and the monetary system; in other matters the Croatian Diet legislates independently.

---

[1] Only the first thirteen sections of this law are here given; the other sections (14–121) relate to proof of qualifications and to electoral procedure. For several years a vigorous agitation has been in progress in favor of the establishment of universal suffrage in Hungary; the agitation is likely to result in an alteration of the qualifications of voters. Any change is retarded by the fact that the Magyars, who now control the Hungarian Diet, could not retain a majority of its membership under universal suffrage. In the face of growing agitation, however, the Hungarian ministry promised, in the latter part of 1907, to bring in a franchise reform bill in the near future.

year 1848; however, those who were registered upon such basis in one of the lists of voters for representatives prepared between 1848 and 1872 inclusive, in conformity with Law 5 of 1848 and the Transylvanian Law 2 of 1848, shall personally remain in the exercise of this right.

SEC. 3. In the royal free cities and in cities with an organized administration the right to vote shall belong to those who possess alone or jointly with their wives and minor children:

a) a house which, even if temporarily exempt from taxation, consists of at least three different parts, subject to the household tax; or

b) land which is assessed on the basis of a net income of 16 florins.

SEC. 4. In those sections of the country in which Law 5 of 1848 is effective the right to vote shall belong to those who in the larger or smaller communes possess one-fourth of an urbarial share[2] or other land of an equal area either alone or jointly with their wives and minor children, it being immaterial in whose name this property is registered.

Lands upon which the tax imposed is equal to that of the most lightly taxed one-fourth urbarial share in the same commune shall be regarded as equal in size to one-fourth of an urbarial share.

In case the urbarial system does not exist in a given commune, the most lightly taxed one-fourth urbarial share of any neighboring commune resembling the given commune most nearly in land values, shall be taken as the standard.

In those parts of the provincialized military border which have been incorporated in the counties of Bács-Bodrogh, Temes, Torontal, and Krasso, and in the county of Szoerény,

[2] The urbarial system is a remnant of the older land tenures; it refers to lands released by the lords, and cultivated by the peasants on their own account; the area of the urbarial share varies for different parts of the country.

ten joch of cultivated land, each of 3,200 square yards, shall be equal to one-fourth of an urbarial share; in the counties of Middle Szolnok, Kraszna, and Zarand, in the Koevár district, in Jazygia and Cumania eight joch of 2,400 square yards shall equal one-fourth of an urbarial share.

Bottom land, gardens, vineyards, arable land, and meadows shall be regarded as cultivated ground.

Sec. 5. In those parts of the country in which the Transylvanian Law 2 of 1848 is in force, the right to vote may be exercised by those who in the larger or smaller communes:

a) pay land taxes according to the present land-tax valuation on a net income of 84 florins, but if they own a house belonging in the first class of taxable property, on an income of 79 florins, 80 kreuzer, and if the house be rated in the second or a higher class, on an income of 72 florins, 80 kreuzer.

In case of the correction of the present valuation or of the adoption of a new valuation, the above-mentioned amounts of income shall be changed to agree with the change in ratio between the present assessments of apparent total net income from land in the Transylvanian districts, and those of the altered valuation.

b) or pay the public tax on a net annual income of not less than 105 florins, subject either to the land or house tax, or to the income tax of the first or third class.

In addition to those qualified in accordance with Law 12 of 1791, every commune which has at least one hundred homesteads may also take part in the election of representatives through two informally chosen electors, smaller communes, however, having one elector.

Sec. 6. The right to vote shall belong also to those:

a) who possess a house, either alone or jointly with their wives and minor children, in the manner provided by sec. 4, upon which the house tax has been assessed on an annual income of not less than 105 florins.

b) who pay the public land tax mentioned under *a*), or

a tax on capital or on both land and capital, upon a net annual income of not less than 105 florins.

c) who as merchants or manufacturers are taxed upon an annual income of not less than 105 florins.

d) who in the royal free cities or in cities with an organized administration are taxed as artisans upon an annual income of not less than 105 florins.

e) who in the larger or smaller communes pay the income tax for not less than one employee.

SEC. 7. The right to vote shall belong also to those who pay the income tax on an annual income of not less than 105 florins, which according to Law 26 of 1868 is rated in the first class; or who pay this tax on an annual income of not less than 700 florins under the provisions of the second class; moreover, those state, municipal, and communal officers may vote who pay the income tax on an annual income of not less than 500 florins under the provisions of the second class.

SEC. 8. In cases covered by secs. 6 and 7 it is required that electors to be entered on the voting lists, in accordance with the provisions there mentioned, must have already been taxed in the preceding year upon an income not less than that fixed above.

SEC. 9. Without regard to income, the following may vote in the electoral districts in which they have their fixed residence: The members of the Hungarian Academy of Sciences, professors, members of academies of fine arts, physicians, lawyers, notaries public, engineers, surgeons, druggists, graduates of agricultural schools, foresters and mining engineers, clergymen, chaplains, communal notaries, teachers and licensed kindergarten teachers.

It is required, however, that pastors and chaplains in order to exercise the right to vote shall actively officiate as such in some officially established congregation.

Professors, school teachers, kindergarten teachers, and communal notaries, on the other hand, shall have the right to

vote only in case they have been legally appointed or elected to their position or have been confirmed therein.

SEC. 10. Persons under paternal authority, under guardianship, or under employers' authority, even though they possess one of the qualifications mentioned in the preceding section, shall not have the right to vote.

The apprentices of merchants and artisans and those employed in public or private service as servants or domestics shall be regarded as being under employers' authority.

Overseers of estates are not regarded as under such authority.

SEC. 11. The right to vote shall not be exercised:

1) By soldiers in the army, sailors, and members of the National Guard, whether on active duty or temporarily on leave during their term of enlistment, but reservists and members of the National Guard summoned in conformity with sec. 36 of Law 40 of 1868 and Law 32 of 1873 for military inspection and temporary service are not included within this provision.

2) By members of the finance, customs, and revenue police.

3) By members of the armed police.

4) By members of the state, municipal, and communal police.

Therefore they shall not be registered in the lists of voters.

SEC. 12. The right to vote shall not be exercised by those:

1) Who have been condemned to imprisonment on account of some crime or misdemeanor, or of some violation of the press laws mentioned in secs. 6 to 12 of Law 18 of 1848, during the continuance of such imprisonment.

2) Who, on the basis of a valid judicial finding, are being held for trial because of some crime or misdemeanor.

3) Who have been disqualified as voters by a regular judicial proceeding, during the time fixed by the judicial sentence.

4) Who have become bankrupt, until they are discharged.

Such persons shall, therefore, not be registered in the list of voters, even if otherwise entitled to vote.

The electors mentioned in clauses 1, 2, 3, and 4, if otherwise entitled to vote, shall be registered in special lists and may by way of exception exercise the right to vote on proof of aquittal or of their discharge from bankruptcy by a valid judicial decision, or if they can furnish evidence by certificate from the competent authorities that they have served the full term of their sentence, or upon proof, by reference to the original judgment, that the term of their disabilities has expired; such evidence to be submitted to the commission charged with the preparation and correction of the lists of voters or finally to the president of the election.

SEC. 13. Every elector who has reached his twenty-fourth year shall be eligible as a representative provided he is registered in the list of voters and is qualified in the Hungarian language, which in accordance with law is the legislative language.

Those sentenced, after the present law has become operative, by a regular judicial proceeding, on account of murder, robbery, arson, larceny, concealment, forgery, fraud, fraudulent bankruptcy, or perjury, shall not be eligible.

AUSTRIA–HUNGARY

In the sections devoted to Austria and to Hungary reference has already been made to the relations existing between the two parts of the Austro-Hungarian monarchy before 1867. Hungary refused to agree to any arrangement that did not leave to it entire independence in the management of its internal affairs, and not until the Emperor was willing to treat upon this basis could any solution of the Hungarian difficulty be reached.

Hungary, under the leadership of Deak, insisted upon the complete adoption of the system established by the laws of 1848, that is, upon the recognition of Hungary as an independent monarchy joined with Austria only by the bonds of a common ruler. Austria would not agree to concede so much as this, and at first contended for an imperial ministry to which the Hungarian ministry should be subordinate. For a time no compromise seemed possible; negotiations were for a time interrupted by the war between Austria and Prussia.

After the defeat of Austria and its exclusion from Germany and Italy, a more conciliatory policy was pursued toward Hungary, and under Beust, the minister whom Austria borrowed from Saxony, an agreement was reached upon the manner of conducting affairs common to the two parts of the monarchy. On February 17, 1867, the Hungarian laws of 1848 were restored in force by imperial order, and to the Hungarian Diet was left the final adoption of measures of compromise with Austria. The *Ausgleich* was adopted by Hungarian law of June 12, 1867; it was then submitted to the Austrian Reichsrat and adopted on December 21, 1867. The important element of this agreement is the recognition of Hungary as a co-ordinate part of the empire, the adoption of the system of dualism.

The *Ausgleich* of 1867 comprised not only the law regulating the permanent political relations between Austria and Hungary, but also laws enacted for a period of ten years, establishing a common customs system for the two countries, and fixing Hungary's share in the expenses of the joint government. These ten-

year treaties were enlarged and renewed in 1878 and 1887. Negotiations for their renewal were begun in 1896, but no agreement could be reached, and not until October 8, 1907, were negotiations finally completed; the laws approved by the Hungarian and Austrian ministries in 1907 were approved by the Austrian Reichsrat and the Hungarian Diet in December of the same year. The laws relate principally to a uniform customs tariff for the two countries, the monetary system, and Hungary's quota of expenses of the joint Austro-Hungarian government.

In 1878 when Bosnia and Herzegovina were taken from Turkey and placed under the control of Austria-Hungary, identical laws were adopted in the two parts of the empire for the administration of these territories.

SELECT BIBLIOGRAPHY[1]

ANDRÁSSY, JULIUS. *Ungarns Ausgleich mit Oesterreich vom Jahre 1867.* (Leipzig, 1897.)

EISENMANN, LOUIS. *Le compromis Austro-Hongrois de 1867.* Étude sur le dualisme. (Paris, 1904.) A careful study of the compromise and of the relations of Austria and Hungary since 1867.

AUSTRIAN LAW CONCERNING THE AFFAIRS COMMON TO ALL OF THE COUNTRIES OF THE AUSTRIAN MONARCHY, AND THE MANNER OF MANAGING THEM[1]

(December 21, 1867)

SECTION 1. The following affairs are declared common to Austria and Hungary:

a) Foreign affairs, including diplomatic and commercial representation abroad, as well as measures relating to international treaties, reserving the right of the representative

[1] See also books listed under Austria and Hungary for discussions of the affairs of the joint government.

[1] The Hungarian Law 12 of June 12, 1867, contains provisions applicable to Hungary which are practically identical with those of this law. On this account it is not thought necessary to give the text of the Hungarian law.

bodies of both parts of the empire (Reichsrat and Hungarian Diet) to approve such treaties, in so far as such approval is required by the constitution.

b) Military and naval affairs; excluding the voting of contingents and legislation concerning the manner of performing military service, the provisions relative to the local disposition and maintenance of the army, the civil relations of persons belonging to the army, and their rights and duties in matters not pertaining to the military service.

c) The finances, with reference to matters of common expense, especially the establishment of the budget and the examination of accounts.

SEC. 2. Besides these, the following affairs shall not indeed be administered in common, but shall be regulated upon uniform principles to be agreed upon from time to time:

1) Commercial affairs, especially customs legislation.

2) Legislation concerning indirect taxes which stand in close relation to industrial production.

3) The establishment of a monetary system and monetary standards.

4) Regulations concerning railway lines which affect the interests of both parts of the empire.

5) The establishment of a system of defense.

SEC. 3. The expenses of affairs common to both Austria and Hungary shall be borne by the two parts of the empire in a proportion to be fixed from time to time by an agreement between the two legislative bodies (Reichsrat and Diet), approved by the Emperor. If an agreement cannot be reached between the two representative bodies, the proportion shall be fixed by the Emperor, but for the term of one year only. The method of defraying its quota of the common expense shall belong exclusively to each of the parts of the empire.[2]

[2] By sec. 36 of this law agreement regarding the distribution of the expense of affairs administered in common, is reached by means of deputations from the Austrian Reichsrat and the Hungarian Diet. Each deputation

Nevertheless, joint loans may be made for affairs of common interest; in such a case all that relates to the negotiation of the loan, as well as the method of employing and repaying it, shall be determined in common.

The decision as to whether a joint loan shall be made is reserved for legislation by each of the two parts of the empire.

SEC. 4. The contribution toward the expense of the present public debt shall be determined by an agreement between the two parts of the empire.[3]

SEC. 5. The administration of common affairs shall be conducted by a joint responsible ministry, which is forbidden to direct at the same time the administration of the joint affairs and those of either part of the empire.

The regulation of the management, conduct, and internal organization of the joint army shall belong exclusively to the Emperor.

SEC. 6. The legislative power belonging to the legislative bodies of each of the two parts of the empire (Reichsrat and Hungarian Diet) shall be exercised by them, in so far as it relates to joint affairs, by means of Delegations.

SEC. 7. The Delegation from the Reichsrat shall consist of sixty members, of whom one-third shall be taken from the

is composed of fifteen members. By a law of December 24, 1867, the ratio was fixed for ten years as 70 per cent. for Austria and 30 per cent. for Hungary. New ten-year agreements were made by laws of June 27, 1878, and May 21, 1887. No new agreement has been made since 1897, and the quota of the two parts of the monarchy has been annually fixed by the Emperor as $66\frac{46}{49}$ per cent. for Austria and $33\frac{3}{49}$ per cent. for Hungary. A new agreement, signed on October 8, 1907, and approved by the Hungarian Diet and Austrian Reichsrat, fixes Hungary's quota of common expenses as 36.4 per cent.

[3] By a law of December 24, 1867, Hungary made a permanent agreement to pay 29,188,000 florins annually toward the interest of the public debt; this was in 1867 nearly 24 per cent. of the total joint debt and 30 per cent. of the interest after the deduction of 25,000,000 florins of the debt, for which Hungary refused to assume any responsibility.

House of Lords and two-thirds from the House of Representatives.[4]

SEC. 8. The House of Lords shall choose its twenty members of the Delegation from among its own members by a majority vote.

The forty members to be chosen by the House of Representatives shall be so elected that the deputies from each provincial Diet may elect, in conformity with the following apportionment, a certain number of delegates, who may be chosen from among themselves or from the House at large.

By majority vote the deputies from the Kingdom of Bohemia shall elect 10; the Kingdom of Dalmatia, 1; the Kingdom of Galicia and Lodomeria, with the Grand Duchy of Cracow, 7; the Archduchy of Lower Austria, 3; the Archduchy of Upper Austria, 2; the Duchy of Salzburg, 1; the Duchy of Styria, 2; the Duchy of Carinthia, 1; the Duchy of Carniola, 1; the Duchy of Bukowina, 1; the Margravate of Moravia, 4; the Duchy of Upper and Lower Silesia, 1; the Princely County of Tyrol, 2; the Territory of Vorarlberg, 1; the Margravate of Istria, 1; the Princely County of Goerz and Gradiska, 1; the city of Triest with its territory, 1.

SEC. 9. In the same way each house of the Reichsrat shall elect substitutes of delegates, of whom ten shall be chosen by the House of Lords and twenty by the House of Representatives.

The number of substitutes to be chosen by the House of Representatives shall be so apportioned that there shall be one substitute for every one to three delegates, and two substitutes for every four or more delegates. The election of each substitute shall take place separately.

SEC. 10. Delegates and their substitutes shall be elected annually by the two houses of the Reichsrat.

[4] By Hungarian Law 30 of 1868 five members of the Hungarian Delegation must be chosen from among the Croatian members of the Hungarian Diet, four from the House of Representatives, and one from the Table of Magnates. The Hungarian Delegation is also composed of sixty members.

The delegates and substitutes shall retain their functions until the new election.

Members of the Delegation are eligible for re-election.

SEC. 11. The Delegations shall be convened annually by the Emperor, who shall determine the place of their meeting.

SEC. 12. The Delegation from the Reichsrat shall elect a president and vice-president from among its own members, and choose also its secretary and other officers.

SEC. 13. The powers of the Delegations shall extend to all matters concerning common affairs.

All other matters shall be beyond their power.

SEC. 14. The projects of the government shall be submitted by the joint ministry to each of the Delegations separately.

Each Delegation shall also have the right to submit projects concerning affairs which are within its competence.

SEC. 15. For the passage of a law concerning matters within the power of the Delegations the agreement of both Delegations shall be necessary, or in default of such agreement, a vote of the full assembly of the two Delegations sitting together; in either case the approval of the Emperor shall be necessary.

SEC. 16. The right to hold the joint ministry to its responsibility shall be exercised by the Delegations.

In case of the violation of a constitutional law in force regarding common affairs, either of the Delegations may present charges to the other against the joint ministry or against any one of its members.

The impeachment shall be legally effective when resolved upon separately by each of the Delegations, or in a joint meeting of the two.

SEC. 17. Each Delegation shall propose, from among the independent and legally trained citizens of the country which it represents, but not from among its own members, twenty-four judges, of whom twelve may be rejected by the other

Delegation. The accused, or all of them when there are several, shall have the right to reject twelve of those named by the two Delegations, but only in such a manner that an equal number of judges be rejected from the lists proposed by each Delegation.

The remaining judges shall form a court for the trial of the impeachment.

SEC. 18. A special law on the responsibility of the joint ministry shall regulate the details concerning the impeachment, the procedure of trial, and the judgment.

SEC. 19. Each Delegation shall act, deliberate, and vote in separate session. Sec. 31 indicates an exception to this rule.

SEC. 20. The decisions of the Delegation of the Reichsrat shall require for their validity the presence of not less than thirty members besides the president, and every decision shall require the vote of a majority of those present.

SEC. 21. The delegates and substitutes from the Reichsrat shall receive no instructions from their electors.

SEC. 22. The delegates from the Reichsrat shall personally exercise their right to vote; sec. 25 determines when a substitute shall take the place of a delegate.

SEC. 23. The delegates from the Reichsrat shall enjoy in that capacity the same immunity which they have as members of the Reichsrat by virtue of sec. 16 of the fundamental law concerning the representation of the empire.

If the Reichsrat is not in session, the above-mentioned rights shall be enforced by the Delegation itself with respect to its members.

SEC. 24. One who ceases to be a member of the Reichsrat shall cease at the same time to be a member of the Delegation.

SEC. 25. If a vacancy occurs in the Delegation or among the substitutes a new election shall be held.

If the Reichsrat is not in session the substitute shall take the place of the retiring delegate.

SEC. 26. When the House of Representatives is dissolved

the powers of the Delegation of the Reichsrat shall come to an end. The newly assembled Reichsrat shall elect a new Delegation.

SEC. 27. The session of the Delegation shall be closed, after the completion of its work, by the president with the consent of the Emperor or by his order.

SEC. 28. The members of the joint ministry shall have the right to take part in all the deliberations of the Delegation, and to present their projects personally or through a deputy.

They shall be heard whenever they desire.

The Delegation shall have the right to address questions to the joint ministry or to any one of its members, to require answers and explanations, and to appoint committees to whom the ministers shall furnish all necessary information.

SEC. 29. The sessions of the Delegation shall as a rule be public.

Exceptionally the public may be excluded if it is so decided by the assembly in secret session, upon the request of the president or of not less than five members.

Every decision, however, shall be made in public session.

SEC. 30. Each Delegation shall communicate to the other its decisions, and if the case requires it, the reasons therefor.

This communication shall take place in writing, in German on the part of the Delegation of the Reichsrat, in the Hungarian language on the part of the Delegation of the Diet; in each case there shall be annexed a certified translation into the language of the other Delegation.

SEC. 31. Each Delegation shall have the right to propose that a question be decided by a vote in joint session, and this proposal cannot be declined by the other Delegation after the exchange of three written communications without result.

The two presidents shall agree upon the time and place of the joint meeting of the two Delegations for the purpose of voting together.

SEC. 32. In the joint sessions the presidents of the Dele-

gations shall preside alternately. It shall be determined by lot which of the two presidents shall preside in the first place.

In all subsequent sessions the presidency at the first joint meeting shall belong to the president of the Delegation which has not had the presidency at the meeting immediately preceding.

SEC. 33. In order to transact business in joint session the presence of not less than two-thirds of the members of each Delegation shall be necessary.

Decisions shall be reached by a majority vote.

If one Delegation has more members present than the other, so many members shall abstain from voting as shall be necessary to establish an equality of the number of voters from each Delegation.

It shall be determined by lot which members shall abstain from voting.

SEC. 34. The joint sessions of the two Delegations shall be public.

The minutes shall be kept in the two languages by the secretaries of the two Delegations and attested by both.

SEC. 35. Further details regarding the procedure of the Delegation of the Reichsrat shall be regulated by an order of business to be adopted by the Delegation itself.

SEC. 36. Agreement concerning matters which, though not managed in common, yet are to be regulated upon the same principles, shall be reached in one of the following ways: (1) The responsible ministries by an agreement between themselves shall prepare a project of law which shall be submitted to the representative bodies of the two parts of the empire and the project agreed upon by the two representative bodies shall be submitted for the approval of the Emperor. (2) Each representative body shall elect from its members a deputation composed of an equal number of members, which shall prepare a project upon the initiative of the respective ministries; such project shall be submitted to each of the

legislative bodies by the ministries, shall be regularly considered, and the identical law of the two assemblies shall be submitted for the approval of the Emperor. The second procedure shall be followed especially in reaching an agreement concerning the distribution of the cost of affairs administered in common.[5]

LAW CONCERNING THE ADMINISTRATION OF BOSNIA AND HERZEGOVINA, UNDERTAKEN BY AUSTRIA-HUNGARY IN ACCORDANCE WITH THE TREATY OF BERLIN OF JULY 31, 1878

February 22, 1880 (Hungarian Law 6 of 1880)

SECTION 1. In conformity with existing laws concerning the common affairs of the monarchy the ministry is authorized and directed, under its constitutional responsibility, to take charge of the provisional administration of Bosnia and Herzegovina, which shall be directed by the joint ministry.

SEC. 2. The determination of the general spirit and principles of this provisional administration and the construction of railways shall, in particular, be regulated by agreement between the governments of the two parts of the Austro-Hungarian monarchy.

SEC. 3. The administration of these lands shall be so regulated that its expenses may be met from its own revenue.

If and in so far as this result cannot be immediately attained, projects for raising revenue to cover ordinary expenses shall be decided upon by agreement between the governments of the two parts of the monarchy, in the manner provided by existing laws for the regulation of common affairs.

Nevertheless, in so far as the administration of Bosnia and Herzegovina may require expenditures for permanent

[5] Sec. 37 of this law is omitted; it related to the time when the law became effective.

establishments, which do not belong within the scope of the current administration, such as railways, public buildings, and similar extraordinary expenses, which should be assumed by the monarchy, subsidies therefor shall only be granted by virtue of identical laws passed by the two parts of the monarchy.

SEC. 4. In the same manner the principles shall be established according to which the following affairs shall be regulated and administered in Bosnia and Herzegovina:

1) The customs system.

2) The indirect taxes which are regulated upon similar principles in the two parts of the monarchy.

3) The monetary system.

SEC. 5. Any alteration of the relations existing between these lands and the monarchy shall require an identical authorization from the legislatures of the two parts of the monarchy.

BELGIUM

The controlling principle of the Congress of Vienna was that of establishing checks upon the power of France. To this purpose is largely due the creation of the United Kingdom of the Netherlands which was established by the consolidation of Holland, the bishopric of Liège, and the former Austrian Netherlands. William of Orange accepted the sovereignty of the new kingdom, guaranteeing equality of treatment to all parts of the consolidated territory.

The constitution of the Netherlands, drawn up in Holland, was submitted to an assembly of Belgians for approval, but was rejected. Nevertheless, it was adopted and remained until 1830 the constitution of the united kingdom. The administration was conducted in a manner more favorable to the Dutch territory than to the Belgian provinces. Dutch was made the official language, although French was spoken in a large part of Belgium, and the Protestant Dutch government antagonized the Belgian Catholics.

The French revolution of July, 1830, first gave the Belgians the idea of a revolt. The government attempted to conciliate the population, being now willing to grant demands which it had theretofore rejected, but the people were bent upon separation. In September, 1830, armed conflict resulted between the Belgian population and Dutch troops. Belgium rose in revolt, and a national congress declared Belgian independence. A constitution was adopted on February 7, 1831, and Leopold of Saxe-Coburg became king in June of the same year.

The king of the Netherlands was unwilling to consent to the new arrangement, but it was supported by the conference of the great powers at London in 1831, and the Dutch government was brought to terms by the employment of French troops.

The Belgian constitution of 1831 remained unaltered for over sixty years. But the electoral franchise was upon a very narrow basis, and a movement for revision began as early as 1866. At last the delays in this respect caused so much dissatisfaction that

all parties were forced to unite in 1893 in a revision of the constitution which should grant universal male suffrage.

SELECT BIBLIOGRAPHY

THONISSEN, J. J. *La constitution belge annotée.* (3d ed., Brussels, 1879.) The standard commentary; for the amendments of 1893 it is supplemented by the work of Thiebault and Henry.

THIEBAULT, CHARLES ET HENRY, ALBERT. *Commentaire des articles revisés de la constitution belge.* (Brussels, 1894.)

VAUTHIER, M. *Das Staatsrecht des Koenigreichs Belgien.* (Freiburg, 1892. Handbuch des oeffentlichen Rechts.)

MASSON, F. ET WILIQUET, C. *Manuel de droit constitutionnel.* (7th ed., Brussels, 1904.) An excellent elementary work, intended for use in normal schools.

LARCIER, FERDINAND. *Code politique et administratif de la Belgique.* (2d ed., Brussels, 1893.) Contains texts of constitution and of all important laws bearing upon the political and administrative organization of Belgium.

GIRON, A. *Dictionnaire de droit administratif et de droit public.* (Brussels, 1895–96. 3 vols.) A fairly satisfactory dictionary of Belgian public law. The same author also has a treatise on Belgian public law, *La droit public de la Belgique* (Brussels, 1884), and the best work on Belgian administrative law, *Le droit administratif de la Belgique* (2d ed., Brussels, 1885. 3 vols.).

ORBAN, O. *Le droit constitutionnel de la Belgique.* Tome I. (Liège, 1906.) To be completed in two volumes. This work has not been examined, but Orban is a high authority, and his treatise will probably supersede the older commentaries.

DUPRIEZ, LÉON. *L'organisation du suffrage universel en Belgique.* Vote plural, vote obligatoire, représentation proportionelle. (Paris, 1901.)

CONSTITUTION OF BELGIUM[1]

(February 7, 1831)

In the name of the Belgian people, the National Congress enacts:

[1] In the preparation of this text assistance has been received from the translation made by Professor J. M. Vincent and issued as a supplement to the *Annals of the American Academy of Political and Social Science*, May, 1896.

TITLE I. THE TERRITORY AND ITS DIVISIONS

ARTICLE 1. Belgium is divided into provinces. These provinces are: Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liège, Limbourg, Luxembourg, Namur.

If there should be occasion for it, the territory may be divided by law into a greater number of provinces.

The colonies, possessions beyond the sea, or protectorates which Belgium may acquire shall be governed by special laws. The Belgian forces required for their defense shall be recruited only by voluntary enlistment.[2]

ART. 2. Subdivisions of the provinces shall not be made except by law.

ART. 3. The boundaries of the state, of the provinces, and of the communes shall not be changed or rectified except by law.

TITLE II. BELGIAN CITIZENS AND THEIR RIGHTS

ART. 4. Belgian nationality is acquired, retained, and lost according to regulations established by the civil law.

The present constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

ART. 5. Naturalization is granted by the legislative power.

Full naturalization alone admits foreigners to equality with Belgians in the exercise of political rights.

ART. 6. There shall be no distinction of classes in the state.

All Belgians are equal before the law; they alone are

[2] As amended September 7, 1893. By treaty of April 19, 1839, Belgium secured a portion of the Grand Duchy of Luxembourg, freed from all connections with the German Confederation. The provision regarding colonies was introduced in 1893 to give the government power to administer the Congo Independent State when it should become a Belgian possession. By a treaty signed on November 28, 1907, Belgium takes over the whole administration of the Congo Independent State. This treaty has not yet been ratified, but the administration will probably be taken over in 1908.

admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

ART. 7. Individual liberty is guaranteed.

No one may be prosecuted except in cases provided for by law and in the form therein prescribed.

Except when one is taken in the commission of an offense no one may be arrested without a warrant issued by a magistrate, which ought to be shown at the time of arrest, or at the latest within twenty-four hours thereafter.

ART. 8. No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

ART. 9. No penalty shall be established or enforced except by virtue of a law.

ART. 10. The private domicile is inviolable; no search of premises shall take place except in the cases provided for by law and according to the form therein prescribed.

ART. 11. No one may be deprived of his property except for a public purpose and according to the forms established by law, and in consideration of a just compensation previously determined.

ART. 12. Punishment by confiscation of property shall not be established.

ART. 13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be re-established.[3]

ART. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, with the reservation of power to suppress offenses committed in the use of these liberties.

ART. 15. No one shall be compelled to join in any manner whatever in the forms or ceremonies of any religious denomination, nor to observe its days of rest.

ART. 16. The state shall not interfere either in the appointment or in the installation of the ministers of any religious

[3] *La mort civile* is abolished as a punishment by itself. The condition follows as a secondary consequence of condemnation to death, hard labor, or transportation for life.

denomination whatever, nor shall it forbid them to correspond with their superiors or to publish their proceedings, subject, in the latter case, to the ordinary responsibility of the press and of publication.

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

ART. 17. Private instruction shall not be restricted; all measures interfering with it are forbidden; the repression of offenses shall be regulated only by law.

Public instruction given at the expense of the state shall likewise be regulated by law.

ART. 18. The press is free; no censorship shall ever be established; no security shall be exacted of writers, publishers, or printers.[4]

In case the writer is known and is a resident of Belgium, the publisher, printer, or distributor shall not be prosecuted.

ART. 19. Belgians have the right, without previous authorization, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

ART. 20. Belgians have the right of association; this right shall not be restricted by any preventive measure.

ART. 21. Anyone has the right to address petitions to the public authorities, signed by one or more persons.

Legally organized bodies alone have the right to petition under a collective name.

ART. 22. The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of letters intrusted to the post.

ART. 23. The use of the languages spoken in Belgium is optional. This matter may be regulated only by law and only for acts of public authority and for judicial proceedings.

[4] See also Arts. 96 and 98 which relate to trials of offenses of the press.

ART. 24. No previous authorization is necessary to bring action against public officials for the acts of their administration, except as provided for ministers.

TITLE III. CONCERNING POWERS

ART. 25. All powers emanate from the people.

They shall be exercised in the manner established by the constitution.

ART. 26. The legislative power shall be exercised collectively by the King, the House of Representatives, and the Senate.

ART. 27. Each of the three branches of the legislative power shall have the right of initiative.

Nevertheless, all laws relating to the revenues or expenditures of the state or to the army contingent must be voted first by the House of Representatives.

ART. 28. The authoritative interpretation of the laws shall belong only to the legislative power.

ART. 29. The executive power is vested in the King, subject to the regulations of the constitution.

ART. 30. The judicial power shall be exercised by the courts and the tribunals.

Decrees and judgments shall be executed in the name of the King.

ART. 31. Exclusively communal or provincial affairs shall be regulated by the communal or provincial councils, according to the principles established by the constitution.

CHAPTER I. THE HOUSES

ART. 32. The members of the two Houses shall represent the nation, and not the province alone, nor the subdivision of the province which elected them.

ART. 33. The sessions of the Houses shall be public.

Nevertheless each House may resolve itself into a secret committee upon the demand of its president or of ten members.

It shall then decide by vote of an absolute majority whether the session shall be resumed in public upon the same subject.

ART. 34. Each House shall judge of the qualifications of its own members, and shall decide all contests which arise upon that subject.

ART. 35. No person shall at the same time be a member of both Houses.

ART. 36. Any member of either of the two Houses, who shall be appointed by the government to any other salaried office except that of minister, and who accepts the same, shall vacate his seat immediately, and may resume his duties only by virtue of a new election.[5]

ART. 37. At each session, each of the Houses shall elect its president, its vice-president, and shall form its bureau.[6]

ART. 38. An absolute majority of the votes shall be necessary to pass any resolution except as otherwise established by the rules of the Houses in regard to elections and nomination.[7]

In case of an equal division of votes, the proposition under consideration is rejected.

Neither of the two Houses shall pass a resolution unless a majority of its members are present.

ART. 39. The votes shall be viva voce or by rising and sitting; the vote on a law as a whole shall always be by roll call and viva voce. The election and nomination of candidates shall be by secret ballot.

ART. 40. Each house has the right to investigate the conduct of public affairs.

ART. 41. A proposed law shall not be passed by either of the Houses unless it has been voted upon article by article.

[5] As amended September 7, 1893. By the original article ministers were also required to seek re-election.

[6] The term "bureau" is used to refer to all other officers of the legislative body, e. g., secretaries, etc.

[7] For questions requiring a two-thirds vote, see Arts. 61, 62, and 131.

ART. 42. The Houses have the right to amend and to divide the articles and amendments proposed.

ART. 43. To present petitions in person to the Houses is forbidden.

Each House has the right to send to the ministers the petitions which are addressed to it. The ministers are obliged to give explanations upon the contents of such petitions whenever the House demands.

ART. 44. No member of either House shall be arrested or prosecuted on account of opinions expressed or votes cast by him in the performance of his duties.

ART. 45. No member of either House shall during the continuance of the session be prosecuted or imprisoned after trial, except by the authority of the House of which he is a member, unless he be apprehended in the commission of an offense.

No member of either House shall be arrested during the session, except by the same authority.

The detention or the prosecution of a member of either House shall be suspended during the session and for the entire term, if the House so demands.

ART. 46. Each House shall determine by its own rules the manner in which it is to exercise its powers.

SECTION I. THE HOUSE OF REPRESENTATIVES

ART. 47. The members of the House of Representatives shall be chosen by direct election under the following regulations:

One vote is allotted to citizens who have reached the age of twenty-five years, resident for at least one year in the same commune and who are not otherwise excluded by law.

One additional vote is allotted in consideration of any one of the following conditions:

1) Having reached the age of thirty-five years, being married or a widower with legitimate offspring, and paying

to the state a tax of not less than five francs as a householder, unless exempt on account of his profession.

2) Having reached the age of twenty-five years and being the owner either of real estate of the value of at least 2,000 francs, said value to be rated on the basis of the cadastral assessment, or possessing income from land corresponding to such valuation, or being inscribed in the great book of the public debt, or possessing obligations of the Belgian government savings-bank bearing at least 100 francs interest.

These inscriptions and bank-books must have belonged to the holder for at least two years.

The property of the wife is counted with that of the husband; that of minor children with that of the father.

Two additional votes are allotted to citizens who have reached the age of twenty-five years, and who fulfil the following conditions:

A) Holding a diploma from an institution of higher instruction, or an indorsed certificate showing the completion of a course of secondary education of the higher degree, without distinction between public or private institutions.

B) Filling or having filled a public office, holding or having held a position, practicing or having practiced a private profession which presupposes that the holder possesses at least the knowledge imparted in secondary instruction of the higher degree. These offices, positions, and professions, likewise the time during which they must have been held or practiced, shall be determined by law.

No one shall have more than three votes.[8]

ART. 48. The constitution of the electoral colleges shall be regulated by law for each province.

Voting is obligatory; it shall take place in the commune, when not otherwise determined by law.[8]

[8] As amended September 7, 1893. Elections of representatives are regulated by laws of April 12, and June 28, 1894, as modified by laws of June 11, 1896, March 31, 1898, December 29, 1899, and April 18, 1902. Proportional representation was introduced by the law of December 29, 1899.

ART. 49. The number of representatives shall be determined by law, according to the population; this number shall not exceed the proportion of one representative for 40,000 inhabitants. The qualifications of an elector and the process of election shall also be determined by law.

ART. 50. To be eligible it is necessary:

1) To be a Belgian citizen by birth, or to have received full naturalization;

2) To enjoy civil and political rights;

3) To have reached the age of twenty-five years;

4) To be a resident of Belgium.

No other condition of eligibility shall be required.

ART. 51. The members of the House of Representatives shall be elected for a term of four years; one-half being elected every two years, in the order determined by the electoral law.

In case of dissolution the House shall be entirely renewed.

ART. 52. Each member of the House of Representatives shall receive an annual compensation of 4,000 francs.

He shall have, in addition, the right of free transportation upon all state and concessionary railways from the place of his residence to the city where the session is held.[9]

SECTION II. THE SENATE

ART. 53. The Senate shall be composed:

1) Of members elected according to the population of each province, conformably to Art. 47; though the law may require that the electors shall have reached the age of thirty years. The provisions of Art. 48 are applicable to the election of senators.

2) Of members elected by the provincial councils, to the number of two for each province having less than 500,000 inhabitants, of three for each province having from 500,000 to 1,000,000 inhabitants, and of four for each province having more than 1,000,000 inhabitants.[9]

[9] As amended September 7, 1893.

ART. 54. The number of senators to be elected directly by the voters shall be equal to one-half the number of members of the House of Representatives.[10]

ART. 55. Senators shall be elected for a term of eight years; one-half being elected every four years in the order determined by the electoral law.

In case of dissolution, the Senate shall be entirely renewed.

ART. 56. In order to be elected and to remain a senator, it shall be necessary:

1) To be a Belgian citizen by birth, or to have received full naturalization;

2) To enjoy civil and political rights;

3) To be a resident of Belgium;

4) To be at least forty years of age;

5) To pay into the treasury of the state at least 1,200 francs of direct taxes, including licenses:

Or to be either the proprietor or the usufructuary of real estate situated in Belgium, the assessed income of which amounts to at least 12,000 francs.

In the provinces where the number of those eligible does not reach the proportion of one for every 5,000 inhabitants, the list shall be completed by the addition of as many of the highest tax-payers of the province as may be necessary to make this proportion. The citizens on this supplementary list are eligible only in the province where they reside.[10]

The senators elected by the provincial councils shall be exempt from all property qualification; they shall not be members of the assembly which elects them, nor have been members of it during the year of the election nor during the two preceding years.[10]

ART. 57. Senators shall receive neither salary nor emolument.

ART. 58. The sons of the King, or if there be none, the Belgian princes of the branch of the royal family designated

[10] As amended September 7, 1893.

to succeed to the throne, shall be by right senators at the age of eighteen years. They shall have no deliberative vote until the age of twenty-five.[11]

ART. 59. Every meeting of the Senate which may be held at any other time than during the session of the House of Representatives, shall be null and void.

CHAPTER II. THE KING AND THE MINISTERS

SECTION I. THE KING

ART. 60. The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, from male to male in the order of primogeniture, and to the perpetual exclusion of females and of their descendants.

[The prince who shall marry without the consent of the King, or of those who in his absence exercise his authority as provided by the constitution, shall forfeit his rights to the crown.]

[Nevertheless, with the consent of the two Houses, he may be relieved of this forfeiture by the King or by those who, in his absence, exercise his authority according to the constitution.[12]]

ART. 61. In default of male descendants of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, the King may name his successor, with the consent of the Houses expressed in the manner prescribed by the following article.

If no nomination has been made after the manner described below, the throne shall be vacant.[12]

ART. 62. The King shall not at the same time be the head of another state, without the consent of the two Houses.

Neither of the Houses shall deliberate upon this matter unless two-thirds, at least, of the members who compose it are present, and the resolution must be adopted by at least two-thirds of the votes cast.

[11] As amended September 7, 1893. [12] As amended September 7, 1893.

ART. 63. The person of the King is inviolable; his ministers are responsible.

ART. 64. No decree of the King shall take effect unless it is countersigned by a minister, who, by that act alone, renders himself responsible for it.

ART. 65. The King appoints and dismisses his ministers.

ART. 66. He confers the grades in the army.

He appoints the officers of the general administration and for foreign relations, except as otherwise established by law.

He appoints other governmental officials only by virtue of an express provision of law.

ART. 67. He shall issue all regulations and decrees necessary for the execution of the laws, without power to suspend the laws themselves, or to dispense with their execution.

ART. 68. The King commands the forces both by land and sea, declares war, makes treaties of peace, of alliance, and of commerce. He shall give information to the two Houses of these acts as soon as the interests and safety of the state permit, adding thereto suitable comments.

Treaties of commerce, and treaties which may burden the state, or bind Belgians individually, shall take effect only after having received the approval of the two Houses.

No cession, exchange, or addition of territory shall take place except by virtue of a law. In no case shall the secret articles of a treaty be destructive of those openly expressed.

ART. 69. The King approves and promulgates the laws.

ART. 70. The Houses shall assemble each year, the second Tuesday in November, unless they shall have been previously summoned by the King.

The Houses shall remain in session at least forty days each year.

The King pronounces the closing of the session.

The King shall have the right to convene the Houses in extraordinary session.

ART. 71. The King shall have the right to dissolve the

Houses either simultaneously or separately. The act of dissolution shall order a new election within forty days, and summon the Houses within two months.

ART. 72. The King may adjourn the Houses. In no case shall the adjournment exceed the term of one month, nor shall it be renewed in the same session, without the consent of the Houses.

ART. 73. He shall have the right to remit or reduce the penalties pronounced by the judges of courts, except such as are fixed by law in the case of ministers.

ART. 74. He shall have the right to coin money, in accordance with the law.

ART. 75. He shall have the right to confer titles of nobility, but without the power of attaching to them any privilege.

ART. 76. He may confer military orders in accordance with the provisions of the law.

ART. 77. The civil list shall be fixed by law for the duration of each reign.[13]

ART. 78. The King shall have no other powers than those which the constitution and the special laws, enacted under the constitution, formally confer upon him.

ART. 79. At the death of the King, the Houses shall assemble without a summons, at the latest on the tenth day after his decease. If the Houses shall have been previously dissolved, and if in the act of dissolution the reassembling had been fixed for a day later than the tenth day, the former members shall resume their duties until the assembling of those who should replace them.

If only one House shall have been dissolved, the same rule shall be followed with regard to that House.

From the date of the death of the King and until the taking of the oath by his successor to the throne, or by the regent,

[13] The civil list of the present king, Leopold II, was fixed by law of December 25, 1865, at 3,300,000 francs.

the constitutional powers of the King shall be exercised, in the name of the Belgian people, by the ministers united in council, and upon their responsibility.

ART. 80. The King is of age when he shall have completed the age of eighteen years.

He shall not take possession of the throne until he shall have solemnly taken, before the united Houses, the following oath:

I swear to observe the constitution and the laws of the Belgian people, to maintain the national independence and the integrity of the territory.

ART. 81. If, at the death of the King, his successor is a minor, the two Houses shall unite in one assembly, for the purpose of providing for the regency and guardianship.

ART. 82. If the King becomes incapacitated to reign, the ministers, after having ascertained this incapacity, shall immediately convene the Houses. The Houses shall provide for the regency and guardianship.

ART. 83. The regency shall be conferred upon only one person.

The regent shall enter upon his duties only after having taken the oath prescribed by Art. 80.

ART. 84. No change in the constitution shall be made during a regency.

ART. 85. In case there is a vacancy of the throne, the Houses deliberating together shall arrange provisionally for the regency, until the first meeting of the Houses after they have been wholly renewed. That meeting shall take place at the latest within two months. The new Houses deliberating together shall provide definitely for the vacancy.

SECTION II. THE MINISTERS

ART. 86. No person shall be a minister unless he is a Belgian by birth, or has received full naturalization.

ART. 87. No member of the royal family shall be a minister.

ART. 88. Ministers shall have no deliberative vote in either House unless they are members of it.

They shall have admission to either House, and are entitled to be heard when they so request.

The Houses shall have the right to demand the presence of ministers.

ART. 89. In no case shall the verbal or written order of the King relieve a minister of responsibility.

ART. 90. The House of Representatives shall have the right to accuse ministers and to arraign them before the Court of Cassation, which, sitting in full bench, alone shall have the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanors committed by ministers when not in the performance of their official duties.

The law shall determine the responsibility of ministers, the penalties to be imposed upon them, and the method of proceeding against them, whether upon accusation made by the House of Representatives or upon prosecution by the aggrieved parties.

ART. 91. The King shall not have power to grant pardon to a minister sentenced by the Court of Cassation except upon request of one of the two Houses.

CHAPTER III. THE JUDICIAL POWER

ART. 92. Actions which involve questions of civil right belong exclusively to the jurisdiction of the courts.

ART. 93. Actions which involve questions of political rights belong to the jurisdiction of the courts, except as otherwise determined by law.

ART. 94. No tribunal nor contentious jurisdiction shall be established except by virtue of a law. No commissions or extraordinary tribunals under any title whatever shall be established.

ART. 95. There shall be a Court of Cassation for the whole of Belgium.

This court shall not consider questions of fact except in the trial of ministers.

ART. 96. The sessions of the courts shall be public, unless this publicity is declared by a judgment of the court to be dangerous to public order or morals.

In cases of political offenses and offenses of the press closed doors shall be enforced only by a unanimous vote of the court.

ART. 97. Every judgment shall be pronounced in open court, and the reasons therefor stated.

ART. 98. The right of trial by jury shall be established in all criminal cases and for all political offenses and offenses of the press.

ART. 99. The justices of the peace and the judges of courts shall be appointed directly by the King.

The members of the courts of appeal and the presidents and vice-presidents of the courts of original jurisdiction shall be appointed by the King from two double lists presented the one by these courts and the other by the provincial councils.

The members of the Court of Cassation shall be appointed by the King from two double lists presented one by the Senate and one by the Court of Cassation.

In both cases the candidates named upon one list may be named also upon the other.

All the names shall be published at least fifteen days before the appointment.

The courts shall choose their presidents and vice-presidents from among their own number.

ART. 100. Judges shall be appointed for life.

No judge shall be deprived of his office or suspended until after trial and judgment.

The removal of a judge from one place to another shall take place only by means of a new appointment and with his consent.

ART. 101. The King appoints and removes the state officials serving in the courts and tribunals.

ART. 102. The salaries of the members of the judiciary shall be fixed by law.

ART. 103. No judge shall accept from the government any salaried office, unless he perform the duties thereof gratuitously, and not then if it is contrary to the law of incompatibility.

ART. 104. There shall be three courts of appeal in Belgium.

Their jurisdiction and the places where they shall be held shall be determined by law.

ART. 105. Special laws shall govern the organization of military tribunals, their powers, the rights and obligations of the members of these tribunals, and the duration of their functions.

There shall be commercial courts in places which shall be designated by law. Their organization, powers, the method of appointment of their members, and the duration of their term of office shall also be determined by law.

ART. 106. The Court of Cassation shall decide conflicts of jurisdiction, according to the method prescribed by law.

ART. 107. The courts and tribunals shall enforce executive decrees and ordinances, whether general, provincial, or local, only so far as they shall conform to the laws.

CHAPTER IV. PROVINCIAL AND COMMUNAL INSTITUTIONS

ART. 108. Provincial and communal institutions shall be regulated by law.

The law shall establish the application of the following principles:

1) Direct election, except in the cases which may be established by law with regard to the chiefs of the communal administration and government commissioners acting in the provincial councils.

2) The relegation to provincial and communal councils of all provincial and communal affairs, without prejudice to

the approval of their acts in the cases and according to the procedure determined by law.

3) The publicity of the sittings of the provincial and communal councils within the limits established by law.

4) The publicity of budgets and of accounts.

5) The intervention of the King or of the legislative power to prevent provincial and communal councils from exceeding their powers and from acting against the general welfare.

ART. 109. The keeping of the civil register is exclusively the duty of the communal authorities.

TITLE IV. FINANCES

ART. 110. No tax for the benefit of the state shall be imposed except by law.

No provincial charge or tax shall be imposed without the consent of the provincial council.

No communal charge or tax shall be imposed without the consent of the communal council.

The law shall determine the exceptions which experience shall show to be necessary in regard to provincial and communal taxes.

ART. 111. Taxes for the benefit of the state shall be voted annually.

The laws which impose such taxes shall remain in force for one year only unless they are re-enacted.

ART. 112. No privilege shall be established with regard to taxes.

No exemption or abatement of taxes shall be established except by law.

ART. 113. Beyond the cases expressly excepted by law, no payment shall be exacted of any citizen other than taxes levied for the benefit of the state, of the province, or of the commune. No change shall be made in the existing system of

polders[14] and *wateringen*[15] which remain subject to ordinary legislation.

ART. 114. No pension or gratuity shall be paid out of the public treasury without the authority of law.

ART. 115. Each year the Houses shall enact the law of accounts and vote the budget.

All the receipts and expenditures of the state shall be contained in the budget and in the accounts.

ART. 116. The members of the Court of Accounts shall be appointed by the House of Representatives, and for a term fixed by law.

This court shall be intrusted with the examination and settlement of the accounts of the general administration and of all persons accountable to the public treasury. It shall see that no item of the expenditures of the budget is overdrawn and that no transfer takes place. It shall audit the accounts of the different administrative organs of the state, and shall gather for this purpose all information and all necessary vouchers. The general accounts of the state shall be submitted to the House with the comments of the Court of Accounts.

This court shall be organized by law.

ART. 117. The salaries and pensions of the ministers of religion shall be paid by the state; the sums necessary to meet this expenditure shall be entered annually in the budget.[16]

[14] Polders are lands reclaimed from the sea by dikes. The owners of these lands are grouped into associations for the maintenance of the dikes and are required by law to bear the expense of such maintenance.

[15] Wateringen are associations formed for the purpose of irrigating and draining lands reclaimed from the sea. They have power to raise funds by taxing the lands affected by such improvements.

[16] This clause is interpreted to apply only to the denominations recognized by law in Belgium in 1830; these are the Catholic, Protestant Evangelical, Anglican, and Jewish; almost the whole of the Belgian population is Catholic. No minister is entitled to a salary (1) if he must receive license from a person practicing a profession without legal authorization, (2) if, being a foreigner, he performs the ministerial functions without the permission of the government.

TITLE V. THE ARMY

ART. 118. The method of recruiting the army shall be determined by law. The laws shall also regulate the promotion, the rights, and the duties of soldiers.

ART. 119. The army contingent shall be voted annually. The law which fixes it shall remain in force for one year only, unless re-enacted.

ART. 120. The organization and the duties of the armed police shall be regulated by law.

ART. 121. No foreign troops shall be admitted into the service of the state, to occupy or to cross its territory except by virtue of law.

ART. 122. There shall be a citizen militia, the organization of which shall be regulated by law.

The officers of all grades, at least as high as that of captain, shall be chosen by the militia, with such exceptions as may be judged necessary for accountants.

ART. 123. The militia shall not be brought into active service, except by virtue of law.

ART. 124. Soldiers shall not be deprived of their grades, honors, or pensions except in the manner prescribed by law.

TITLE VI. GENERAL PROVISIONS

ART. 125. The Belgian nation adopts for its colors red, yellow, and black, and for the coat of arms of the kingdom, the Belgian lion, with the motto, "Union Gives Strength."

ART. 126. The city of Brussels is the capital of Belgium and the seat of government.

ART. 127. No oath shall be imposed except by virtue of law. The form of the oath shall also be determined by law.

ART. 128. Every foreigner within the territory of Belgium shall enjoy protection of his person and property, except as otherwise established by law.

ART. 129. No law, ordinance, or regulation of the general, provincial, or communal government shall be obligatory until after having been published in the manner prescribed by law.

ART. 130. The constitution shall not be suspended, either in whole or in part.

TITLE VII. THE REVISION OF THE CONSTITUTION

ART. 131. The legislative power has the right to declare that a revision of such constitutional provisions as it shall designate, is in order.

After this declaration, the two Houses are *ipso facto* dissolved.

Two new Houses shall then be summoned, in conformity with Art. 71.

These Houses, with the approval of the King, shall then act upon the points submitted for revision.

In this case the Houses shall not deliberate unless at least two-thirds of the members of each are present, and no amendment shall be adopted unless it is supported by at least two-thirds of the votes.

TITLE VIII. TEMPORARY PROVISIONS

ART. 132. For the first choice of a head of the state the first provision of Art. 80 may be neglected.

ART. 133. Foreigners established in Belgium before January 1, 1814, and who continue to reside therein, shall be considered Belgians by birth, upon condition that they declare their intention to take advantage of this provision.

Such declaration shall be made within six months after this constitution goes into effect, if the foreigners are of age, and if they are minors, within the year after attaining their majority.

This declaration shall be made before the provincial authority of the province where they reside.

It shall be made in person or by an agent having a special and authentic authorization.

ART. 134. Until further provision by law, the House of Representatives shall have discretionary power to accuse a

minister, and the Court of Cassation to try him, find the offense, and fix the penalty.

Nevertheless the penalty shall not extend farther than removal from office, without prejudice to the cases expressly provided for by the penal laws.

ART. 135. The personnel of the courts shall be maintained as it now exists, until further provision has been made by law.

Such a law shall be enacted during the first legislative session.

ART. 136. A law, passed during the first legislative session, shall provide for the manner of the first nomination of members of the Court of Cassation.[17]

ART. 137. The fundamental law of August 24, 1815, and the provincial and local statutes are abolished. However, the provincial and local authorities shall retain their powers until a law shall make other provision.

ART. 138. As soon as this constitution goes into effect all laws, decrees, orders, regulations, and other instruments contrary thereto are abrogated.

SUPPLEMENTARY PROVISION

ART. 139. The National Congress declares that it is necessary to provide for the following objects, by separate laws and as soon as possible:

1) The press.
2) The organization of the jury.
3) The finances.
4) Provincial and communal organization.
5) The responsibility of ministers and of other officers.
6) The judicial organization.
7) The revision of the pension list.
8) Measures proper to prevent the abuse of cumulative office-holding.

[17] Art. 99 provides for subsequent appointments.

9) The revision of the laws of bankruptcy and of suspension.

10) The organization of the army, the rights of advancement and of retirement, and the military penal code.

11) The revision of the codes.

BRAZIL

Until 1815 Brazil was a Portuguese colony. The invasion of Portugal by Napoleon in 1807 forced the royal family to seek refuge in Brazil, which continued for several years to be the seat of government of the kingdom. By decree of December 16, 1815, Brazil ceased to be a colony and became an integral part of the kingdom of Portugal, Brazil, and Algarves.

In 1821 King John VI returned to Portugal, leaving his son Dom Pedro as regent. The sentiment in favor of separation had been growing for some time, and when orders were sent to Dom Pedro to return to Portugal he declared his intention of remaining in Brazil. Brazilian independence was declared, Dom Pedro became emperor on October 12, 1822, and an imperial constitution was promulgated on March 25, 1824. Portugal recognized the independence of Brazil in 1825.

The movement for the establishment of a republic began to gain strength after 1870, but was held in check by the popularity of Dom Pedro II. In 1889, however, the republicans felt strong enough for action. On November 15 of that year a bloodless revolution occurred, the republic was proclaimed, and the imperial family was sent to Portugal. The revolution was essentially a military movement and for several years Brazil remained under the control of a military party.

A republican constitution was adopted on February 24, 1891, which established a federal government, and erected the former provinces into states.

SELECT BIBLIOGRAPHY

Brazil. *Constituição da republica dos Estados Unidos do Brazil acompanhada das leis organicas publicadas desde 15 de Novembro de 1889.* (Rio de Janeiro, 1891.)

Brazil. *Manual do senador.* (Rio de Janeiro, 1905.) Contains the text of the constitution and of important laws relating to the government.

Milton, Aristides A. *A constituição do Brazil.* Noticia historica, texto e commentario. (2d ed., Rio de Janeiro, 1898.)

Freire, Felisbello. *Historia constitucional da republica dos Estados Unidos do Brazil.* (Rio de Janeiro, 1894. 2 vols.) Practically a history of the revolution of 1889.

Coelho, Henrique. *O poder legislativo e o poder executivo no direito publico Brazileiro.* (S. Paulo, 1905.)

Moreira Pinto, Alfredo. *Chorographia do Brasil.* (6th ed., Rio de Janeiro, 1900.) Contains text of federal and state constitutions.

CONSTITUTION OF BRAZIL[1]

(February 24, 1891)

We, the representatives of the Brazilian people, assembled in constitutional convention for the purpose of organizing a free and democratic government, do establish, decree, and promulgate the following constitution for the Republic of the United States of Brazil.

TITLE I. THE FEDERAL ORGANIZATION

PRELIMINARY PROVISIONS

Article 1. The Brazilian Nation adopts for its government the federal republican representative form, as proclaimed on the fifteenth of November, eighteen hundred and eighty-nine, and constitutes itself, by the perpetual and indissoluble union of its former provinces, into the United States of Brazil.

Art. 2. Each of the former provinces shall constitute a state, and the former neutral municipal district shall form the federal district, continuing to be the capital of the Union until the provisions of the ensuing article shall be put into effect.

Art. 3. A territory of fourteen thousand, four hundred square kilometers shall be marked off in the central plateau of the republic, as the property of the Union, and in this territory shall be established the future federal capital.

[1] In the preparation of this text assistance has been received from the translation in Rodriguez, *American Constitutions,* Vol. I (Washington, 1906).

When the transfer of the capital has been effected the present federal district shall become a state.

ART. 4. The states may become incorporated one with another, may subdivide or dismember themselves to annex themselves to others or to form new states, if the respective legislative assemblies consent thereto in two successive annual sessions, and if the National Congress gives its approval.

ART. 5. Each state shall, at its own expense, provide for the needs of its own government and administration; the Union, however, shall lend aid to a state which asks for assistance, in case of public calamity.

ART. 6. The federal government shall not interfere in matters pertaining peculiarly to the states, except:

1) To repel foreign invasion, or the invasion of one state by another.

2) To maintain the federal republican form of government.

3) To re-establish order and tranquillity in the states, upon the requisition of their respective governments.

4) To secure the execution of the federal laws and judgments.

ART. 7. It is the exclusive province of the Union to regulate:

1) Duties on imports from foreign countries.

2) Entry, clearance, and port dues of vessels; but the coasting trade shall be free to domestic merchandise and to foreign merchandise which has already paid an import duty.

3) Stamp duties, saving the restriction mentioned in Art. 9, paragraph 1, No. 1.

4) Federal postal and telegraph rates.

Section 1. The Union shall also have exclusive power:

1) To establish banks of issue.

2) To create and maintain custom-houses.

Sec. 2. Taxes levied by the Union shall be uniform for all the states.

Sec. 3. The laws of the Union and the acts and decrees of its authorities shall be executed throughout the whole country by federal officials; but the execution of the federal laws may be intrusted to the governments of the states, if they consent thereto.

ART. 8. The federal government is forbidden to make distinctions and preferences, in any way whatever, in favor of the ports of one state as against those of another.

ART. 9. The states alone shall have power to levy taxes:

1) Upon the exportation of merchandise produced in their own territory.

2) Upon rural and city real estate.

3) Upon the transfer of property.

4) Upon industries and professions.

Sec. 1. The states shall also have the exclusive right to regulate:

1) Stamp taxes affecting acts emanating from their respective governments and concerning their internal affairs.

2) Contributions relating to their postal and telegraphic service.

Sec. 2. The products of one state are exempt from taxes in any other state through which they may pass for export.

Sec. 3. A state is permitted to levy duties on imports of foreign goods only when such goods are intended for consumption within its own territory, the proceeds of the duty reverting, however, to the federal treasury.

Sec. 4. The states shall have the right to establish telegraph lines between different points of their own territories, and between these points and those of other states which are not provided with a federal telegraph service, the Union reserving the right to acquire such lines when the general interest may require it.

ART. 10. The states are forbidden to tax federal property or revenue or services in charge of the Union; the federal government is likewise forbidden to tax state property and services.

13500

ART. 11. It is forbidden to the states, as well as to the Union:

1) To impose taxes on the products of a state, or of a foreign country, when in transit through the territory of another state, or when going from one state to another, or upon the vehicles, whether by land or water, by which they are transported.

2) To establish, subsidize, or interfere with the exercise of religious worship.

3) To enact retroactive laws.

ART. 12. In addition to the sources of revenue specified in Arts. 7 and 9, it shall be lawful for the Union, as well as for the states, cumulatively or otherwise, to create any others whatsoever, provided that they are not in contravention of the terms of Arts. 7, 9, and 11, No. 1.

ART. 13. The right of the Union and of the states to legislate in regard to railways and navigation of internal waters shall be regulated by federal law.

Coastwise navigation shall be carried on by national vessels.

ART. 14. The land and naval forces are permanent national institutions, intended for the defense of the country from foreign attack and for the maintenance of the laws of the land.

Within the limits of the law, the armed forces are from their nature bound to obey their superiors in rank, and to support the constitutional institutions.

ART. 15. The legislative, executive, and judicial powers are organs of the national sovereignty, harmonious with each other, and independent among themselves.

SECTION I. THE LEGISLATIVE POWER

CHAPTER I. GENERAL PROVISIONS

ART. 16. The legislative power shall be exercised by the National Congress subject to the approval of the President of the Republic.

Sec. 1. The National Congress shall be composed of two branches, the House of Deputies and the Senate.

Sec. 2. The elections for senators and for deputies shall be held simultaneously throughout the country.

Sec. 3. No person shall be at the same time senator and deputy.

Art. 17. The Congress shall assemble in the federal capital on the third day of May of each year without being convened, unless another day is designated by law, and shall continue in session four months from the date of the opening, and may be prorogued, adjourned, or convened in extraordinary session.

Sec. 1. The Congress alone shall have the right to decide respecting the extension or adjournment of its sessions.

Sec. 2. Each legislature shall continue three years.

Sec. 3. When a vacancy occurs in the Congress on account of resignation or for any other reason the respective state shall immediately order the election of a new member.

Art. 18. The House of Deputies and the Senate shall meet separately and, unless otherwise determined by a majority vote, their sessions shall be public. A majority of votes shall be required to pass any measure in either house, provided there is present an absolute majority of its members.

Each house shall have power:

To verify and recognize the elections of its members.

To choose its officers.

To make the rules of its proceedings.

To provide for its own police service.

To appoint its clerks.

Art. 19. The deputies and senators shall be inviolable for their opinions, expressions, or votes in the discharge of their duties.

Art. 20. Deputies and senators, from the time they have received their credentials until a new election, shall not be arrested or prosecuted criminally without the previous consent

of their house, except when taken in the act of committing an unbailable offense. In the latter case the court shall collect all the evidence and submit it to the proper house, which shall decide whether or not an indictment is to be made, unless the accused should prefer to submit to immediate trial.

ART. 21. The members of the two houses, on taking their seats, shall take a formal oath, in public session, to perform their duties faithfully.

ART. 22. During the sessions the senators and deputies shall be entitled to salaries and emoluments, the same for members of both bodies, to be fixed by the Congress at the close of each legislature, for the succeeding one.

ART. 23. No member of Congress shall, after his election, enter into contracts with the executive power, or receive from it any salaried office or commission.

Sec. 1. From this prohibition are excepted:

1) Diplomatic missions.

2) Military commands and commissions.

3) Legal promotions.

Sec. 2. No deputy or senator, shall, however, accept missions, commissions, or commands, as provided in Nos. 1 and 2 of the preceding section, without first obtaining the permission of the house to which he belongs, when the acceptance precludes the member from exercising his legislative functions, except in cases of war or in those in which the honor and integrity of the Union are involved.

ART. 24. No deputy or senator shall be president or director of a bank, company, or enterprise which enjoys favors from the federal government, defined by law.

Failure to observe the provisions contained in this and in the preceding article shall entail forfeiture of the seat in Congress.

ART. 25. The office of senator or deputy is incompatible with the exercise of any other functions during the sessions.

ART. 26. The following are the conditions of eligibility to the National Congress:

1) To enjoy the rights of a Brazilian citizen and be entitled to be registered as an elector.

2) For the House of Deputies, to have been a Brazilian citizen for more than four years; for the Senate, Brazilian citizenship of more than six years.

This provision does not apply to the citizens mentioned in No. 4 of Art. 69.

ART. 27. The Congress shall define, by a special law, the cases of ineligibility to Congress.

CHAPTER II. THE HOUSE OF DEPUTIES

ART. 28. The House of Deputies shall be composed of representatives of the people elected by the states and by the federal district, by direct suffrage; the representation of the minority is guaranteed.

Sec. 1. The number of deputies shall be fixed by law and shall not exceed one for every seventy thousand inhabitants, but each state shall have at least four deputies.

Sec. 2. For this purpose the federal government shall order a census of the population of the republic to be taken at once, which shall be revised every ten years.

ART. 29. To the House shall belong the initiative in the adjournment of the legislative session, of all tax laws, of laws fixing the land and naval forces, in the discussion of recommendations made by the executive power, and in the decision of the question whether the President of the Republic should or should not be impeached, under the provisions of Art. 53, and whether the cabinet ministers should or should not also be impeached for crimes committed by them jointly with the President of the republic.

CHAPTER III. THE SENATE

ART. 30. The Senate shall be composed of citizens eligible under the terms of Art. 26, who are over thirty-five years of age. There shall be three senators for each state and three

for the federal district, elected in the same manner as the deputies.

ART. 31. The term of service of the senators shall be nine years, one-third of the Senate being renewed every three years.

The term of a senator elected to fill a vacancy shall continue during the remainder of the term of the senator replaced.

ART. 32. The vice-president of the republic shall be the president of the Senate, where he shall vote only in case of tie, and in case of his absence or disability, his place shall be taken by the vice-president of the Senate.

ART. 33. The Senate alone shall have the power to try and pass sentence on the President of the republic and the other federal officers designated by the constitution, under the conditions and in the manner which it prescribes.

Sec. 1. The Senate, when sitting as a court of justice, shall be presided over by the president of the federal Supreme Court.

Sec. 2. It shall not pass sentence of condemnation unless by two-thirds of the members present.

Sec. 3. It shall not impose penalties other than removal from office and disqualification to hold any other office, without prejudice to the action of ordinary justice against the person condemned.

CHAPTER IV. POWERS OF THE CONGRESS

ART. 34. The National Congress shall have exclusive power:

1) To estimate the revenue and fix the expenditures of the federal government annually, and to examine the accounts of the receipts and expenditures of each financial year.

2) To authorize the executive power to contract loans and to conduct other operations of credit.

3) To legislate in regard to the public debt and to provide for its payment.

4) To control the collection and distribution of the federal revenue.

5) To regulate foreign commerce as well as that of the states with each other and with the federal district, to establish custom-houses, to create or abolish warehouses of deposit.

6) To legislate with regard to the navigation of rivers which run through more than one state or extend into foreign territory.

7) To determine the weight, value, inscription, type, and denomination of coins.

8) To create banks of issue, legislate in regard to their issue, and to levy taxes upon it.

9) To fix the standard of weights and measures.

10) To determine definitely, the boundaries of the states, of the federal district, and of the national territory.

11) To authorize the government to declare war, when arbitration has failed or cannot take place, and to make peace.

12) To decide definitely with regard to treaties and conventions with foreign nations.

13) To change the capital of the union.

14) To grant subsidies to the states in the case referred to in Art. 5.

15) To legislate concerning the federal postal and telegraph service.

16) To adopt the measures proper for the protection of the frontiers.

17) To fix annually the land and naval forces.

18) To regulate the organization of the army and navy.

19) To permit or prohibit the passage of foreign forces through the territory of the country for the purpose of military operations.

20) To mobilize and make use of the national guard or militia in the cases provided by the constitution.

21) To declare a state of siege at one or more places in the national territory, in the emergency of an attack by foreign

forces or of internal disturbance, and to approve or suspend the state of siege declared by the executive power, or by its responsible agents, during the recess of Congress.

22) To determine the conditions and methods of elections for federal offices throughout the country.

23) To legislate with regard to the civil, commercial, and criminal laws of the republic, and the law of federal procedure.

24) To establish uniform laws on naturalization.

25) To create and abolish federal public offices, to fix the duties of the same, and to designate their salaries.

26) To organize the federal judicial system in accordance with Arts. 55 and following of Section III.

27) To grant amnesty.

28) To commute and remit penalties imposed upon federal officers in cases of impeachment.

29) To make laws regarding lands and mines belonging to the Union.

30) To legislate with regard to the municipal organization of the federal district, as well as concerning the police, superior education, and the other services which in the capital are reserved to the federal government.

31) To govern by special legislation those places within the territory of the republic needed for the establishment of arsenals or other establishments or institutions for federal use.

32) To regulate cases of extradition between the states.

33) To enact such laws and resolutions as may be necessary for the exercise of the powers belonging to the Union.

34) To enact organic laws for the complete execution of the constitution.

35) To extend or adjourn its sessions.

ART. 35. Congress shall also have power, but not exclusively:

1) To see to the observance of the constitution and of the laws, and to provide for needs of a federal character.

2) To encourage in the country the development of litera-

ture, arts, and sciences, as well as of immigration, agriculture, industry, and commerce, without granting privileges which may embarrass the action of the local governments.

3) To create institutions for higher and secondary instruction in the states.

4) To provide for secondary instruction in the federal district.

CHAPTER V. LAWS AND RESOLUTIONS

ART. 36. Saving the exceptions specified in Art. 29, all bills may originate, indifferently, in the House or in the Senate, and may be introduced by any of their members.

ART. 37. A bill after being passed in one of the houses shall be submitted to the other, and if the latter approves it, shall be sent to the executive, who, if approving it, shall sanction and promulgate it.

Sec. 1. If, however, the President of the republic should consider the bill unconstitutional, or contrary to the interests of the nation, he shall veto it within ten working days, counted from that on which he received it, and shall return it within the same period to the house in which it originated, with his reasons for the veto.

Sec. 2. The failure of the President of the republic to approve or disapprove the bill within ten days shall be considered as an approval; in case the bill is vetoed after the Congress has closed, the President shall publish his reasons therefor.

Sec. 3. A bill not approved shall be returned to the house in which it originated, where it shall be discussed and subjected to a yea-and-nay vote, and shall be considered approved if it obtain two-thirds of the votes of the members present. In this case, the bill shall be sent to the other house, and if it be there approved in the same manner and by the same majority it shall be sent as a law to the executive, for formal promulgation.

Sec. 4. The sanction and promulgation shall be made in the following language:

1) "The National Congress enacts and I approve the following law (or resolution)."

2) "The National Congress enacts and I promulgate the following law (or resolution)."

ART. 38. If the law is not promulgated within forty-eight hours by the President of the republic in the cases specified in secs. 2 and 3 of Art. 37, the president of the Senate or the vice-president, if the president does not do it in the same period, shall promulgate it, using the following language: "I, the president (or vice-president) of the Senate, do make known to all those who may see these presents that the National Congress enacts and promulgates the following law (or resolution)."

ART. 39. A bill from one house, amended in the other, shall be returned to the former, and if the amendments are accepted therein, shall be sent to the executive as amended.

Sec. 1. In the contrary case, the bill shall be returned to the house where it was amended, and if the alterations receive the vote of two-thirds of the members present, they shall be considered as approved, and shall then be sent, together with the bill, to the house where the bill originated, which can only reject the amendments by a two-thirds vote.

Sec. 2. If the alterations are rejected by such vote, the bill shall be submitted without them to the approval of the executive.

ART. 40. Bills rejected or not approved, shall not be presented again in the same legislative session.

SECTION II. THE EXECUTIVE POWER

CHAPTER I. THE PRESIDENT AND VICE-PRESIDENT

ART. 41. The executive power shall be vested in the President of the United States of Brazil, as elective head of the nation.

Sec. 1. The vice-president, elected simultaneously with the President, shall take the place of the latter in case of temporary disability, and shall succeed him in case of vacancy in the presidency.

Sec. 2. In case of disability of the vice-president, or vacancy of his office, the following shall be called in the order named, to fill the presidency: The vice-president of the Senate, the president of the House of Deputies, the president of the federal Supreme Court.

Sec. 3. The following are the essential conditions of eligibility to the presidency or vice-presidency of the republic:

1) To be a native of Brazil.

2) To be in the enjoyment of political rights.

3) To be over thirty-five years of age.

ART. 42. If the vacancy in the presidency or vice-presidency occurs, for any cause whatever, before two years of the presidential term have elapsed, a new election shall be held.

ART. 43. The President shall hold his office for four years, and shall not be re-elected for the succeeding presidential term.

Sec. 1. A vice-president who may have filled the presidency during the last year of the presidential term, shall not be eligible to the presidency for the succeeding term.

Sec. 2. The President shall cease to exercise his powers, without fail, on the same day on which his presidential term expires, and the newly elected President shall at once succeed him.

Sec. 3. If the latter should fail to enter upon the discharge of his duties, the succession shall be effected in accordance with secs. 1 and 2 of Art. 41.

Sec. 4. The first presidential term shall expire on the fifteenth day of November, eighteen hundred and ninety-four.

ART. 44. On taking possession of his office, the President, before Congress, or if that body is not in session, before the federal Supreme Court, shall make the following affirmation:

I promise to maintain and execute the federal constitution with perfect loyalty, to promote the general welfare of the republic, to observe its laws, and to uphold its union, integrity, and independence.

ART. 45. The President and vice-president shall not leave the national territory without the permission of the Congress, under penalty of loss of office.

ART. 46. The President and vice-president shall receive a salary fixed by the Congress in the preceding presidential term.

CHAPTER II. ELECTION OF PRESIDENT AND VICE-PRESIDENT

ART. 47. The President and vice-president of the republic shall be elected by direct suffrage of the nation and by an absolute majority of votes.

Sec. 1. The election shall be held on the first day of March of the last year of the presidential term, and the examination of the votes received in the respective election districts shall be made in the federal capital and in the capitals of the states.

Congress shall count the votes in its first meeting of the same year, with whatever number of members may be present.

Sec. 2. If no one of those voted for shall have received an absolute majority of votes, Congress shall elect, by a majority vote of those present, one of the two persons who has obtained the greatest number of votes in the direct election.

In the case of a tie the candidate of greatest age shall be considered elected.

Sec. 3. The process of election and counting of votes shall be regulated by ordinary law.

Sec. 4. The relatives, whether by blood or affinity, within the first and second degrees, of the President or vice-president who is in the exercise of his functions at the time of the election, or who was so six months before the election shall be ineligible to the offices of President and vice-president.

CHAPTER III. THE POWERS OF THE EXECUTIVE

ART. 48. To the President of the republic shall belong the exclusive right:

1) To approve, promulgate, and make public the laws and

resolutions of the Congress; to issue decrees, instructions, and regulations for their exact execution.

2) To appoint and dismiss at will the ministers of state.

3) To exercise, or to designate one who shall exercise supreme command over the land and naval forces of the United States of Brazil when called to arms for the internal or external defense of the Union.

4) To govern the army and navy and to distribute their respective forces, in accordance with the federal laws and with the needs of the national government.

5) To appoint to the civil and military offices of a federal character, under the restrictions specified in the constitution.

6) To remit and commute penalties for crimes subject to federal jurisdiction, except in the cases mentioned in Art. 34, No. 28 and Art. 52, sec. 2.

7) To declare war and to make peace, under the provisions of Art. 34, No. 11.

8) To declare war at once in cases of foreign invasion or aggression.

9) To present an annual statement to the National Congress of the condition of the country, indicating pressing measures and reforms, by means of a message, which he shall send to the secretary of the Senate on the day of the opening of the legislative session.

10) To convene the Congress in extraordinary session.

11) To appoint the federal judges upon nomination by the Supreme Court.

12) To appoint the members of the federal Supreme Court and diplomatic ministers, with the approval of the Senate; and, in the absence of the Congress, to appoint them temporarily until approved by the Senate.

13) To appoint all other members of the diplomatic corps, and consular agents.

14) To maintain relations with foreign states.

15) To declare directly, or through his responsible agents,

a state of siege at any place within the national territory, in case of foreign aggression or of serious internal disorder (Art. 6, No. 3; Art. 34, No. 21; and Art. 80).

16) To enter into negotiations with other countries, to conclude agreements, conventions, and treaties, always referring such treaties and conventions to the Congress, and to approve those made by the states in conformity with Art. 65, submitting them, at the time of their execution, to the authority of the Congress.

CHAPTER IV. MINISTERS OF STATE

ART. 49. The President of the republic shall be assisted by the ministers of state, agents of his confidence, who shall sign the acts and each of whom shall preside over one of the departments into which the federal administration is divided.

ART. 50. The ministers of state shall not exercise any other public employment or function, nor shall they be elected President or vice-president of the Union, deputy, or senator.

Any deputy or senator who accepts the position of minister of state shall vacate his seat and a new election shall at once be held, in which he may not be a candidate.

ART. 51. The ministers of state shall not appear at the meetings of the Congress and shall communicate with that body only in writing or personally by means of conferences with the committees of the houses.

The annual reports of the ministers shall be addressed to the President of the republic and shall be distributed to all of the members of Congress.

ART. 52. The ministers of state shall not be responsible to the Congress or to the courts for advice given to the President of the republic.

Sec. 1. They shall be responsible, however, for their acts which are defined by law as crimes.

Sec. 2. For ordinary offenses and in cases of impeachment they shall be prosecuted and tried before the federal

Supreme Court; and for offenses committed jointly with the President of the republic, by the authority competent to pass judgment on the latter.

CHAPTER V. THE RESPONSIBILITY OF THE PRESIDENT

ART. 53. After the House of Deputies shall have decided that he should be tried on charges made against him, the President of the United States of Brazil shall be brought to trial and judgment, before the federal Supreme Court in cases of ordinary crimes, and before the Senate in cases of impeachment.

After it has been decided that the President shall be tried, he shall be suspended from the exercise of his functions.

ART. 54. Acts for which the President of the republic may be impeached are those which are directed against:

1) The political existence of the Union.

2) The constitution and the federal form of government.

3) The free exercise of political powers.

4) The legal enjoyment and exercise of political or individual rights.

5) The internal security of the country.

6) The honesty of the administration.

7) The constitutional custody and use of the public funds.

8) The appropriations voted by Congress.

Sec. 1. These offenses shall be defined by a special law.

Sec. 2. Another law shall regulate the mode of accusation, procedure, and judgment.

Sec. 3. Both of these laws shall be enacted in the first session of the first Congress.

SECTION III. THE JUDICIAL POWER

ART. 55. The judicial power of the Union shall be vested in a federal Supreme Court, sitting at the capital of the republic, and in as many inferior federal courts and tribunals distributed throughout the country, as the Congress may create.

ART. 56. The federal Supreme Court shall be composed

of fifteen justices, appointed in conformity with Art. 48, No. 12, from among the citizens of notable learning and reputation, eligible to the Senate.

ART. 57. The federal judges shall hold office for life, removable only by judicial sentence.

Sec. 1. Their salaries shall be fixed by law and shall not be diminished.

Sec. 2. The Senate shall try the impeachments of members of the federal Supreme Court, and the federal Supreme Court those of the inferior federal judges.

ART. 58. The federal courts shall choose their presidents from among their own members, and shall organize their respective clerical corps.

Sec. 1. In these corps the appointment and dismissal of the respective clerks, as well as the filling of the judicial offices in the judicial districts, shall belong to the presidents of the respective courts.

Sec. 2. The President of the republic shall appoint, from among the members of the federal Supreme Court, the attorney-general of the republic, whose duties shall be defined by law.

ART. 59. The federal Supreme Court shall have power:

I. To try with original and exclusive jurisdiction:

a) The President of the republic for ordinary crimes, and the ministers of state in the cases specified in Art. 52.

b) The diplomatic ministers for ordinary crimes and in cases of impeachment.

c) Disputes and conflicts between the Union and the states, or between the states one with another.

d) Suits and claims between foreign nations and the Union, or between foreign nations and the states.

e) Conflicts between the federal judges or courts among themselves, or between them and those of the states, as well as conflicts of the judges and courts of one state with the judges and courts of another state.

II. To decide, on appeal, questions passed upon by the inferior federal judges or courts, as well as those mentioned in sec. 1 of the present article and in Art. 60.

III. To review decided cases in accordance with Article 81.

Sec 1. An appeal to the federal Supreme Court may be taken against decisions rendered in the last instance, by the courts of the states:

a) When the validity or application of the federal laws or treaties is called in question and the decision of the state court shall be against the same.

b) When the validity of laws or acts of the governments of the states in opposition to the constitution or to the federal laws, is contested and the state court shall have decided in favor of the validity of the state acts or laws in question.

Sec. 2. In the cases which involve the application of the laws of the states, the federal courts shall consult the decisions of the local tribunals, and, vice versa, the state courts shall consult the decisions of the federal tribunals, when the interpretation of the laws of the Union is involved.

Art. 60. The federal judges and courts shall have jurisdiction over:

a) Cases in which either party bases his action or defense on some provision of the federal constitution.

b) Suits against the government of the Union or the national treasury founded upon provisions of the constitution, laws, or executive regulations, or upon contracts entered into with such government.

c) Claims for compensation, recovery of property, indemnification for damages, or any other claims, presented by the government of the Union against private individuals or vice versa.

d) Suits between one state and the citizens of another, or between citizens of different states, when the respective state laws are different.

e) Suits between foreign states and Brazilian citizens.

f) Actions instituted by foreigners, founded upon contracts with the government of the Union or upon conventions or treaties between the Union and other nations.

g) Questions of maritime law and those relating to navigation, either of the ocean, or of the rivers and lakes of the country.

h) Questions of international criminal or civil law.

i) Political crimes.

Sec. 1. Congress is forbidden to delegate any federal jurisdiction to the courts of the states.

Sec. 2. Sentences and decrees of the federal courts shall be enforced by federal court officers to whom the local police shall be bound to render assistance when called upon to do so.

ART. 61. The decisions of the state judges or tribunals of competent jurisdiction shall be final in the suits and questions in which they are rendered, except in cases of:

1) Habeas corpus; or

2) Settlement of the estate of a deceased foreigner, in cases not provided for by convention or treaty.

In such cases there may be an appeal to the federal Supreme Court.

ART. 62. The state courts shall not have power to intervene in questions submitted to the federal tribunals, or to annul, alter, or suspend the sentences or orders of the latter. And, reciprocally, the federal courts shall not intervene in questions submitted to the state courts, or annul, alter, or suspend the decisions or orders of the latter, except in the cases expressly defined in this constitution.

TITLE II. THE STATES

ART. 63. Each state shall be governed by the constitution and laws adopted by it, provided that the constitutional principles of the Union be respected.

ART. 64. The mines and vacant lands situated in the states shall belong to them; the Union shall have the right only to

that portion of the territory which may be necessary for the defense of the frontier, for fortifications, military constructions, and federal railways.

National property which may not be necessary for the service of the Union shall pass to the dominion of the states in whose territory it may be situated.

ART. 65. The states shall have power:

1) To conclude among themselves agreements and conventions of a non-political character (Art. 48, No. 16).

2) To exercise, in general, any power or right not expressly or impliedly denied to them by a provision of the constitution.

ART. 66. The states are forbidden:

1) To refuse credit to the public documents of the Union, or of any state, of a legislative, administrative, or judicial character.

2) To refuse to recognize the currency, whether coin or paper, put into circulation by the federal government.

3) To make or declare war among themselves, or to employ reprisals.

4) To refuse the extradition of criminals requested by the courts of other states, or of the federal district, in conformity with the laws of Congress relating to this subject (Art. 34, No. 32).

ART. 67. Excepting the restrictions specified in the constitution and in the federal laws, the federal district shall be governed by its municipal authorities.

The expenses of a local character in the capital of the republic shall be defrayed exclusively by the municipal authority.

TITLE III. THE MUNICIPALITY

ART. 68. The states shall organize themselves in such a manner as to assure the autonomy of the municipalities in all that relates to their particular interests.

TITLE IV. BRAZILIAN CITIZENS

SECTION I. QUALIFICATIONS OF BRAZILIAN CITIZENSHIP

ART. 69. The following are Brazilian citizens:

1) Persons born in Brazil, even of a foreign father, if the latter is not residing in Brazil in the service of his country.

2) Children of a Brazilian father, and illegitimate children of a Brazilian mother, born in foreign countries, if they establish their residence in the republic.

3) Children of a Brazilian father residing in a foreign country in the service of the republic, even though they do not acquire a domicile in the republic.

4) Foreigners who, having been in Brazil on the fifteenth day of November, eighteen hundred and eighty-nine, shall not have declared, within six months after the constitution comes into force, their desire to preserve their nationality of origin.

5) Foreigners who hold real estate in Brazil and are married to Brazilian women, or have Brazilian children, provided that they reside in Brazil, unless they have declared their intention of not changing their nationality.

6) Foreigners naturalized in any other way.

ART. 70. Citizens of more than twenty-one years of age, who are registered according to law, shall be electors.

Sec. 1. The following shall not be registered as electors for federal or state elections:

1) Beggars;

2) Illiterate persons;

3) Soldiers on pay, except cadets of the higher military schools;

4) Members of monastic orders, companies, congregations, or communities of any denomination, subject to vows of obedience, rules, or statutes requiring the surrender of individual liberty.

Sec. 2. Citizens who cannot be registered are not eligible to office.

ART. 71. The rights of the Brazilian citizen may be suspended or lost, only in the following cases:

Sec. 1. They are suspended:

a) Through physical or moral incapacity.

b) Through condemnation of crime, during the period of its operation.

Sec. 2. They shall be lost:

a) Through naturalization in a foreign country.

b) Through the acceptance of employment or pension from a foreign government, without the permission of the federal executive.

Sec. 3. A federal law shall determine the conditions for the reacquisition of the rights of Brazilian citizenship.

SECTION II. DECLARATION OF RIGHTS

ART. 72. The constitution secures to Brazilians and to foreigners residing in the country the inviolability of their rights touching liberty, personal security, and property, in the following terms:

Sec. 1. No one shall be forced to do, or not to do, anything except by virtue of law.

Sec. 2. All persons are equal before the law. The republic does not recognize privileges of birth, or titles of nobility, and abolishes the existing honorary orders, their prerogatives and decorations, and all titles of nobility.

Sec. 3. All persons and religious confessions shall have the right to exercise their religion publicly and freely, to form associations for that purpose, and to acquire property, so long as they conform to the provisions of the ordinary law.

Sec. 4. The republic recognizes only the civil marriage, the solemnization of which shall be gratuitous.

Sec. 5. The cemeteries shall possess a secular character, and shall be managed by the municipal authorities, but all religious denominations shall be free to use their respective rites therein, provided they do not offend public morals or violate the law.

Sec. 6. The instruction given in the public institutions shall be secular.

Sec. 7. No church or worship shall be officially subsidized or made dependent upon, or be connected with, the government of the Union, or of the states.

Sec. 8. All persons shall have the right freely to associate and to meet together without arms, and the police shall not interfere except to preserve public order.

Sec. 9. All persons shall be permitted to address, by petition, the public powers, to denounce abuses of the authorities, and to request that the guilty parties be held responsible.

Sec. 10. In time of peace all persons shall have the right to enter or leave the national territory at such time and in such manner as they may like, carrying with them their property, without the necessity of a passport.

Sec. 11. The house is the inviolable asylum of the person who inhabits it; without his consent no one shall enter it at night, except to aid the victims of a crime or disaster, or during the day, except in the cases and in the manner prescribed by law.

Sec. 12. The expression of opinion on all subjects, through the press or from the platform, shall be free without subjection to censorship, each one being responsible for the abuses which he may commit, in the cases and in the manner prescribed by law. Anonymous publications shall not be permitted.

Sec. 13. No arrest shall be made, except where the person is taken in the act, without previous indictment, unless otherwise permitted by law, and upon the written order of the proper authority.

Sec. 14. No one shall be kept in prison without charges having been formally filed against him, except in the cases prescribed by law, nor be taken to prison, or detained there if he will give proper bail, in cases where bail is lawful.

Sec. 15. No one shall be sentenced, except by a competent

authority, and by virtue of a pre-existing law, and in the form prescribed by it.

Sec. 16. The law shall secure to the accused the fullest defense and all the resources and means essential thereto, including notice of the charge, to be delivered to the prisoner within twenty-four hours, signed by the competent authority, with the names of the accusers and witnesses.

Sec. 17. The rights of property shall be maintained in their entirety, and no condemnation shall be made, except from necessity or public utility, and indemnity shall, in such cases, be previously made.

Mines shall belong to the owners of the soil, with the limitations which may be established by law to encourage the development of this branch of industry.

Sec. 18. The secrecy of correspondence is inviolable.

Sec. 19. No penalty shall extend beyond the person of the guilty party.

Sec. 20. The penalties of the galleys and of judicial banishment are abolished.

Sec. 21. The death penalty is likewise abolished, saving the provisions of military legislation in time of war.

Sec. 22. The writ of habeas corpus shall always be granted when the individual suffers or is in imminent danger of suffering violence or coercion, through illegality or abuse of power.

Sec. 23. No privileged jurisdiction shall be recognized, except in those cases which, owing to their nature, belong to special courts.

Sec. 24. The free exercise of any profession, moral, intellectual, or industrial, is guaranteed.

Sec. 25. Industrial inventions shall belong to their inventors, who shall be protected by a patent granted for a limited time, or rewarded by Congress with a reasonable prize, when it may be expedient to make the invention public property.

Sec. 26. The exclusive right to reproduce literary or

artistic works by the press or by any other mechanical process, is guaranteed to their authors. The heirs of the authors shall enjoy this right for the period which the law shall determine.

Sec. 27. The law shall also secure the ownership of trade marks.

Sec. 28. No Brazilian citizen shall be deprived of his civil or political rights, or exempted from the performance of any civil duty, on account of his religious belief or office.

Sec. 29. All those who allege their religious belief as a reason for exempting themselves from any duty which the laws of the republic impose upon its citizens, and those who accept foreign decorations or titles of nobility, shall lose all their political rights.

Sec. 30. No tax of any kind shall be collected except under authority of law.

Sec. 31. Trial by jury shall be maintained.

ART. 73. Public offices, civil or military, shall be accessible to all Brazilian citizens, provided that the conditions of special fitness, fixed by law, be observed; the accumulation of salaried positions is forbidden.

ART. 74. Commissions, positions, and offices to be held for life are fully guaranteed.

ART. 75. Public officers shall be retired with pay, only in case of becoming unable to perform their duties, while in the service of the nation.

ART. 76. Officers of the army and navy shall forfeit their commissions, only when condemned, after trial by the competent courts, to more than two years' imprisonment.

ART. 77. The military and naval officers shall be tried by special courts for military offenses.

Sec. 1. This jurisdiction shall be vested in a Supreme Military Court, whose members shall serve for life, and in the courts-martial which may be needed for the proper trial of the cases.

Sec. 2. The organization and powers of the Supreme Military Court shall be regulated by law.

ART. 78. The enumeration of guaranties and rights made in the constitution shall not exclude other guaranties and rights not enumerated, but resulting from the form of government established and the principles proclaimed by the constitution.

TITLE V. GENERAL PROVISIONS

ART. 79. A citizen vested with functions belonging to one of the three federal powers shall not exercise those belonging to the other two.

ART. 80. Any part of the territory of the Union may be declared in a state of siege and the constitutional guaranties suspended in it for a fixed period, whenever the security of the republic may require it, in case of foreign aggression or internal disturbance (Art. 34, No. 21).

Sec. 1. If Congress is not in session and the country is in imminent danger, the executive power shall make this declaration (Art. 48, No. 15).

Sec. 2. In the exercise of this power during a state of siege the executive shall, however, be restricted to the following measures of repression against persons:

1) To their detention in a place not destined for persons accused of common crimes.

2) To banishment to some other part of the national territory.

Sec. 3. As soon as the Congress assembles, the President of the republic shall report to that body all the exceptional measures which he may have taken, and give his reasons therefor.

Sec. 4. The authorities who have ordered such measures shall be responsible for any abuses which may have been committed.

ART. 81. Criminal cases which have been concluded may be reviewed at any time, if to the benefit of the condemned

parties, by the federal Supreme Court, which shall amend or affirm the sentence.

Sec. 1. The law shall determine the manner and form of the revision, which may be asked for, either by the condemned party, by any one of the people, or *ex officio* by the attorney-general of the republic.

Sec. 2. In such revisions, the penalties imposed by the judgment under review shall not be increased.

Sec. 3. The provisons of the present article shall apply to military trials.

ART. 82. Public officers shall be strictly responsible for the abuses and omissions of which they may be guilty in the exercise of their functions, as well as for their failure to exact from their subordinates the proper responsibility for their acts.

Public officers shall bind themselves formally, on taking possession of their offices, faithfully to discharge the lawful duties of the same.

ART. 83. Until revoked, the laws of the former régime shall remain in force, except in so far as they are explicitly or impliedly contrary to the system of government established by the constitution, and to the principles proclaimed by its provisions.

ART. 84. The government of the Union guarantees the payment of the public debt, domestic and foreign.

ART. 85. The staff and line officers of the navy shall have the same ranks and privileges as the officers of the army of corresponding grade.

ART. 86. Every Brazilian is bound to do military service in defense of the country and of the constitution, in accordance with the federal laws.

ART. 87. The federal army shall be made up of contingents, which the states and the federal district shall be bound to furnish, in accordance with an annual law fixing the strength of the public forces.

Sec. 1. A federal law shall determine the general organization of the army, in accordance with No. 18 of Art. 34.

Sec. 2. The military instruction of the corps and branches of the army and higher military education shall be in charge of the Union.

Sec. 3. Compulsory recruiting for military service is abolished.

Sec. 4. The army and navy shall be recruited by voluntary enlistment, without bounty, and if this method fails, by a previously organized system of conscription.

The navy shall be manned from the naval school, from the schools of naval apprentices, and from the members of the merchant marine, by conscription.

ART. 88. The United States of Brazil shall in no case engage in a war of conquest, directly or indirectly, by itself or in alliance with another nation.

ART. 89. A Court of Accounts shall be established to audit the accounts of receipts and expenditures and to pass upon their legality before they are presented to Congress.

The members of this court shall be appointed by the President of the republic with the approval of the Senate, and shall lose their places only by judicial sentence.

ART. 90. The constitution may be amended upon the initiative of the National Congress, or of the legislatures of the states.

Sec. 1. An amendment shall be considered as proposed, when introduced by one-fourth, at least, of the members of either house of the national Congress, and accepted, after three discussions, by two-thirds of the votes in both houses of the Congress, or, when suggested by two-thirds of the states, in the course of one year, each one of the latter being represented by a majority of the votes of its legislature.

Sec. 2. The proposed amendment shall be considered approved if, in the following year, after three discussions, it

is adopted by a majority of two-thirds of the votes in the two houses of Congress.

Sec. 3. The amendment adopted shall be published with the signatures of the presidents and secretaries of the two houses, and inserted in the constitution as an integral part thereof.

Sec. 4. No project having a tendency to abolish the federal republican form of government, or the equal representation of the states in the Senate, shall be admitted for consideration in the Congress.

ART. 91. As soon as this constitution is approved, it shall be promulgated by the presiding officers of the Congress and signed by the members thereof.

TEMPORARY PROVISIONS

ARTICLE 1. Upon the promulgation of the present constitution, the Congress, assembled in joint session, shall choose at once, by absolute majority on the first ballot, and, if such be not obtained, by a plurality on the second, the President and vice-president of the United States of Brazil.

Sec. 1. This election shall be made by means of two different votes, one for the President and another for the vice-president; the votes for the President shall be taken and counted first, and the votes for vice-president shall then be taken and counted.

Sec. 2. The President and vice-president thus elected shall fill the presidency and vice-presidency of the republic during the first presidential term.

Sec. 3. There shall be no incompatibilities for this election.

Sec. 4. As soon as such election is made, the Congress shall declare its mission in joint session as a convention, to be ended, and, separating itself into House and Senate, shall enter upon the exercise of its normal functions on the fifteenth day of June of the current year, and it shall not for any reason be dissolved.

Sec. 5. In the first year of the first legislature, the Senate, as soon as it has completed its organization, shall designate the first and second thirds of its members whose terms shall cease at the end of the first and second triennial periods.

Sec. 6. This designation shall be made in three lists, corresponding to the three thirds of the Senate, whereon the names of the Senators of each state and of the federal district shall be inscribed, according to the respective number of votes obtained by them, so that the one first in the voting in the federal district and in each state shall be placed in the list for the last triennium and the others in the lists for the other triennial periods, according to the relative number of votes obtained by them.

Sec. 7. In case of a tie preference shall be given to the elder, and if the ages be equal, the choice shall be made by lot.

ART. 2. The state which at the end of the year eighteen hundred and ninety-two shall not have adopted a constitution for itself shall be, by act of Congress, subjected to that one of another state, which may be deemed most suitable, but the state thus subjected to the constitution of another state shall have the right to amend that instrument in the manner provided in the same.

ART. 3. As fast as the states shall be organized, the federal government shall deliver to them the administration of the services which belong to them under the constitution, and shall put an end to the responsibility of the federal administration in all that relates to such services and to the payment of the respective officials.

ART. 4. While the states are engaged in regulating their expenses, during the time when they are organizing their administration, the federal government shall grant them special credits for this purpose, under conditions to be established by law.

ART. 5. As soon as the states are organized, the classifica-

tion of the revenues established in the constitution shall enter into force.

ART. 6. In the first appointments of federal and state judges preference shall be given to the present judges of the courts of first instance, and to the chief judges who may enjoy the greatest reputation.

Judges who have served for over thirty years and who cannot have positions in the new judicial organization shall be retired on full pay.

Those who have served for less than thirty years shall continue to receive their present salaries until they are employed or retired with salaries corresponding to their time of service.

The expenses incurred in paying the salaries of the judges placed on the retired or reserve lists shall be paid by the federal government.

ART. 7. On and after November 15, 1889, a pension shall be paid to D. PEDRO DE ALCANTARA, ex-Emperor of Brazil, which shall guarantee him a suitable maintenance for the remainder of his life. Congress in its first regular session shall fix the amount of this pension.

ART. 8. The federal government shall acquire for the nation the house in which DR. BENJAMIN CONSTANT BOTELHO DE MAGALHÃES died, and shall order a tablet to be placed upon the same in memory of that great patriot and founder of the republic.

The widow of the said DR. BENJAMIN CONSTANT shall enjoy the use of such house during her life.

CANADA

The French province of Canada was ceded to Great Britain by the Treaty of Paris of 1763. The people of the colony were allowed practically no share in its government until 1774; the Quebec act of that year intrusted the government to a governor and a legislative council appointed by the King, and representative institutions were not introduced until 1791. In 1791 Canada was divided into two provinces, Upper Canada and Lower Canada, and each province was given an elected assembly. In Lower Canada the conflict between the English and French races led to serious difficulties which culminated in the rebellion of 1837–38. This uprising was suppressed without difficulty and Lower Canada was governed for the next two years without a representative assembly.

Lord Durham was sent to Canada in 1838 as high commissioner; in an elaborate report he recommended the establishment of responsible government, i. e., that the government should be intrusted to those having the confidence of the representative house of the legislature; and that Upper and Lower Canada be again united into one province. The legislature of Upper Canada and the special council of Quebec passed addresses favoring the union, and the two provinces were united by a British act of 1840. After 1840 the government of Canada was conducted more or less upon the principle of responsible government, but not until the administration of Lord Elgin which began in 1847 was this principle fully recognized. The legislative union under the act of 1840 did not work well because of the continued conflict between the English and French portions of the population; government at last became practically impossible because of the close political divisions in the assembly.

Lord Durham in 1839 had recommended a federal union of the Canadian provinces, and such a union had been made a political issue in 1858. Before this date responsible government had been introduced into the maritime provinces of Nova Scotia, New Brunswick, and Prince Edward Island, and the question of

the union of the maritime provinces was under consideration in 1864. The Canadian ministry took hold of the matter and on October 10, 1864, delegates from all of the British North American colonies met in conference at Quebec. Newfoundland was represented in this conference but took no further action with regard to a union with the other colonies. This conference drew up seventy-two resolutions which were approved by the governments of Canada, New Brunswick, and Nova Scotia. Another conference was held at London in the winter of 1866, at which some changes were introduced into the plan of union, and the British North America Act was passed by the British Parliament in March, 1867.

SELECT BIBLIOGRAPHY

CLEMENT, W. H. P. *The Law of the Canadian Constitution.* (2d ed., Toronto, 1904.) Consists principally of an annotated text of the British North America Act.

WHEELER, GERALD JOHN. *Confederation Law of Canada; Privy Council Cases on the British North America Act, 1867.* (London [1896].) Contains text of the important decisions construing the British North America Act.

CARTWRIGHT, JOHN R. *Cases Decided on the British North America Act, 1867, in the Privy Council, the Supreme Court of Canada, and the Provincial Courts.* (Toronto, 1882–97. 5 vols.) The most complete collection of cases.

BRADSHAW, F. *Self-Government in Canada and How It Was Achieved: The Story of Lord Durham's Report.* (London, 1903.) An interesting and valuable account of Lord Durham's mission to Canada in 1838.

HOUSTON, WILLIAM. *Documents Illustrative of the Canadian Constitution.* (Toronto, 1891.) An indispensable collection of documents.

BOURINOT, J. G. *How Canada Is Governed.* (5th ed., Toronto, 1902.) The best elementary work on the Canadian government.

BOURINOT, J. G. *A Manual of the Constitutional History of Canada.* (New edition, Toronto, 1901.) An important study of Canadian constitutional development by the leading authority.

MUNRO, J. E. C. *The Constitution of Canada.* (Cambridge, 1889.) A study of the organization of the Canadian government and of its relations with the imperial government.

LEFROY, A. H. F. *The Law of Legislative Power in Canada.* (Toronto, 1897–98.) An important commentary, based upon judicial decisions interpreting the British North America Act.

TODD, ALPHEUS. *Parliamentary Government in the British Colonies.* (2d ed., London, 1894.) An authoritative treatise on the working of responsible government in the British colonies.

EGERTON, H. E. AND GRANT, W. L. *Canadian Constitutional Development.* Shown by selected speeches and dispatches, with introduction and explanatory notes. (London, 1907.)

THE BRITISH NORTH AMERICA ACT

(March 29, 1867)

An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof; and for purposes connected therewith.

Whereas the provinces of Canada, Nova Scotia and New Brunswick have expressed their desire to be federally united into one Dominion under the Crown of the united kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the united kingdom:

And whereas such a union would conduce to the welfare of the provinces and promote the interests of the British empire:

And whereas on the establishment of the union by authority of parliament it is expedient, not only that the constitution of the legislative authority in the Dominion be provided for, but also that the nature of the executive government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the union of other parts of British North America:

Be it therefore enacted and declared by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same as follows:

I. PRELIMINARY

1. This act may be cited as the British North America Act, 1867.

2. The provisions of this act referring to her majesty the queen extend also to the heirs and successors of her majesty, kings and queens of the united kingdom of Great Britain and Ireland.

II. UNION

3. It shall be lawful for the queen, by and with the advice of her majesty's most honourable privy council, to declare by proclamation that, on and after a day therein appointed, not being more than six months after the passing of this act, the provinces of Canada, Nova Scotia and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three provinces shall form and be one Dominion under that name accordingly.

4. The subsequent provisions of this act shall, unless it is otherwise expressed or implied, commence and have effect on and after the union, that is to say, on and after the day appointed for the union taking effect in the queen's proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this act.

5. Canada shall be divided into four provinces, named Ontario, Quebec, Nova Scotia and New Brunswick.[1]

6. The parts of the province of Canada (as its exists at the passing of this act) which formerly constituted respectively the provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate provinces. The part which formerly constituted the prov-

[1] The following additions have been made to the membership of the confederation: Manitoba, July 15, 1870; British Columbia, July 20, 1871; Prince Edward Island, July 1, 1873; Alberta and Saskatchewan, September 1, 1905. Newfoundland has never joined the Union.

ince of Upper Canada shall constitute the province of Ontario; and the part which formerly constituted the province of Lower Canada shall constitute the province of Quebec.

7. The provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this act.

8. In the general census of the population of Canada, which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four provinces shall be distinguished.

III. EXECUTIVE POWER

9. The executive government and authority of and over Canada is hereby declared to continue and be vested in the queen.

10. The provisions of this act referring to the governor-general extend and apply to the governor-general for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the government of Canada on behalf and in the name of the queen, by whatever title he is designated.

11. There shall be a council to aid and advise in the government of Canada, to be styled the queen's privy council for Canada; and the persons who are to be members of that council shall be from time to time chosen and summoned by the governor-general and sworn in as privy councillors, and members thereof may be from time to time removed by the governor-general.

12. All powers, authorities and functions, which under any act of the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland, or of the legislature of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick, are at the union vested in or exercisable by the respective governors or lieutenant-governors of those provinces with the advice, or with the advice and consent,

of the respective executive councils thereof, or in conjunction with those councils, or with any number of members thereof, or by those governors or lieutenant-governors individually, shall, as far as the same continue in existence and capable of being exercised after the union in relation to the government of Canada, be vested in and exercisable by the governor-general, with the advice, or with the advice and consent, of or in conjunction with the queen's privy council for Canada, or any members thereof, or by the governor-general individually, as the case requires, subject, nevertheless (except with respect to such as exist under acts of the parliament of Great Britain or of the parliament of the united kingdom of Great Britain and Ireland) to be abolished or altered by the parliament of Canada.

13. The provisions of this act referring to the governor-general in council shall be construed as referring to the governor-general acting by and with the advice of the queen's privy council for Canada.

14. It shall be lawful for the queen, if her majesty thinks fit, to authorize the governor-general from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the governor-general such of the powers, authorities and functions of the governor-general as the governor-general deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the queen; but the appointment of such a deputy or deputies shall not affect the exercise by the governor-general himself of any power, authority or function.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in Canada, is hereby declared to continue and be vested in the queen.

16. Until the queen otherwise directs, the seat of government of Canada shall be Ottawa.

IV. LEGISLATIVE POWER

17. There shall be one parliament for Canada, consisting of the queen, an upper house styled the senate, and the house of commons.

18. The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by the members thereof respectively, shall be such as are from time to time defined by act of the parliament of Canada, but so that the same shall never exceed those at the passing of this act held, enjoyed and exercised by the commons house of parliament of the united kingdom of Great Britain and Ireland and by the members thereof.[2]

19. The parliament of Canada shall be called together not later than six months after the union.

20. There shall be a session of the parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the parliament in one session and in its first sitting in the next session.

THE SENATE

21. The senate shall, subject to the provisions of this act, consist of seventy-two members, who shall be styled senators.[3]

22. In relation to the constitution of the senate, Canada shall be deemed to consist of three divisions:

1. Ontario;

2. Quebec;

3. The Maritime provinces, Nova Scotia and New Brunswick;

which three divisions shall (subject to the provisions of

[2] Repealed and replaced by act of 1875; see p. 223.

[3] By the British North America Act of 1871 the Canadian Parliament was empowered to make provision for the representation therein of provinces subsequently admitted. Manitoba has 4 senators, British Columbia 3, Alberta and Saskatchewan 4 each, making a total of 87 senators. See sec. 147 for the representation of Prince Edward Island in the Senate.

this act) be equally represented in the senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; and the Maritime provinces by twenty-four senators, twelve thereof representing Nova Scotia and twelve thereof representing New Brunswick.

In the case of Quebec, each of the twenty-four senators representing that province shall be appointed for one of the twenty-four electoral divisions of Lower Canada specified in schedule A to chapter one of the consolidated statutes of Canada.

23. The qualifications of a senator shall be as follows:

1) He shall be of the full age of thirty years:

2) He shall be either a natural-born subject of the queen, or a subject of the queen naturalized by an act of the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland, or of the legislature of one of the provinces of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick before the union, or of the parliament of Canada after the union:

3) He shall be legally or equitably seized as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seized or possessed for his own use and benefit of lands or tenements held in franc-alleu or in roture, within the province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages and encumbrances due or payable out of, or charged on or affecting the same:

4) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities:

5) He shall be resident in the province for which he is appointed:

6) In the case of Quebec, he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The governor-general shall from time to time, in

the queen's name, by instrument under the great seal of Canada, summon qualified persons to the senate; and, subject to the provisions of this act, every person so summoned shall become and be a member of the senate and a senator.

25. Such persons shall be first summoned to the senate as the queen by warrant under her majesty's royal sign manual thinks fit to approve, and their names shall be inserted in the queen's proclamation of union.

26. If at any time, on the recommendation of the governor-general, the queen thinks fit to direct that three or six members be added to the senate, the governor-general may, by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the senate accordingly.

27. In case of such addition being at any time made, the governor-general shall not summon any person to the senate, except on a further like direction by the queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four senators, and no more.

28. The number of senators shall not at any time exceed seventy-eight.

29. A senator shall, subject to the provisions of this act, hold his place in the senate for life.

30. A senator may, by writing under his hand, addressed to the governor-general, resign his place in the senate, and thereupon the same shall be vacant.

31. The place of a senator shall become vacant in any of the following cases:

1) If for two consecutive sessions of the parliament he fails to give his attendance in the senate:

2) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights and privileges of a subject or citizen of a foreign power:

3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter:

4) If he is attainted of treason, or convicted of felony or of any infamous crime:

5) If he ceases to be qualified in respect of property or of residence: provided that a senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the government of Canada while holding an office under that government requiring his presence there.

32. When a vacancy happens in the senate, by resignation, death or otherwise, the governor-general shall, by summons to a fit and qualified person, fill the vacancy.

33. If any question arises respecting the qualification of a senator or a vacancy in the senate, the same shall be heard and determined by the senate.

34. The governor-general may from time to time, by instrument under the great seal of Canada, appoint a senator to be speaker of the senate, and may remove him and appoint another in his stead.

35. Until the parliament of Canada otherwise provides, the presence of at least fifteen senators, including the speaker, shall be necessary to constitute a meeting of the senate for the exercise of its powers.

36. Questions arising in the senate shall be decided by a majority of voices, and the speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

THE HOUSE OF COMMONS

37. The house of commons shall, subject to the provisions of this act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five

for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.[4]

38. The governor-general shall from time to time, in the queen's name, by instrument under the great seal of Canada, summon and call together the house of commons.

39. A senator shall not be capable of being elected or of sitting or voting as a member of the house of commons.

40. Until the parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia and New Brunswick shall, for the purposes of the election of members to serve in the house of commons, be divided into electoral districts as follows:

I. ONTARIO

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns enumerated in the first schedule to this act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.

2. QUEBEC

Quebec shall be divided into sixty-five electoral districts, composed of the sixty-five electoral divisions into which Lower Canada is, at the passing of this act, divided under chapter two of the consolidated statutes of Canada, chapter seventy-five of the consolidated statutes for Lower Canada, and the act of the province of Canada of the twenty-third year of the queen, chapter one, or any other act amending the same in force at the union, so that each such electoral division shall be for the purposes of this act an electoral district entitled to return one member.

[4] According to the apportionment act of October 24, 1903, the House of Commons is now composed of 214 members, of whom 86 are elected for Ontario, 65 for Quebec, 18 for Nova Scotia, 13 for New Brunswick, 10 for Manitoba, 7 for British Columbia, 4 for Prince Edward Island, 5 each for Saskatchewan and Alberta, and 1 for the territory of Yukon.

3. NOVA SCOTIA

Each of the eighteen counties of Nova Scotia shall be an electoral district. The county of Halifax shall be entitled to return two members, and each of the other counties one member.

4. NEW BRUNSWICK

Each of the fourteen counties into which New Brunswick is divided, including the city and county of St. John, shall be an electoral district. The city of St. John shall also be a separate electoral district. Each of those fifteen electoral districts shall be entitled to return one member.

41. Until the parliament of Canada otherwise provides, all laws in force in the several provinces at the union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the house of assembly or legislative assembly in the several provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the house of commons for the same several provinces.

Provided that, until the parliament of Canada otherwise provides, at any election for a member of the house of commons for the district of Algoma, in addition to persons qualified by the law of the province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a house-holder, shall have a vote.

42. For the first election of members to serve in the house of commons the governor-general shall cause writs to be issued by such person, in such form and addressed to such returning officers as he thinks fit.

The persons issuing writs under this section shall have the like powers as are possessed at the union by the officers charged with the issuing of writs for the election of members to serve in the respective house of assembly or legislative assembly of the province of Canada, Nova Scotia or New Brunswick; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the union by the officers charged with the returning of writs for the election of members to serve in the same respective house of assembly or legislative assembly.

43. In case a vacancy in the representation in the house of commons of any electoral district happens before the meeting of the parliament or after the meeting of the parliament before provision is made by the parliament in this behalf, the provisions of the last foregoing section of this act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The house of commons, on its first assembling after a general election, shall proceed with all practicable speed to elect one of its members to be speaker.

45. In case of a vacancy happening in the office of speaker, by death, resignation or otherwise, the house of commons shall, with all practicable speed, proceed to elect another of its members to be speaker.

46. The speaker shall preside at all meetings of the house of commons.

47. Until the parliament of Canada otherwise provides, in case of the absence for any reason, of the speaker from the chair of the house of commons for a period of forty-eight consecutive hours, the house may elect another of its members to act as speaker, and the member so elected shall, during the continuance of such absence of the speaker, have and execute all the powers, privileges and duties of speaker.

48. The presence of at least twenty members of the house of commons shall be necessary to constitute a meeting of

the house for the exercise of its powers, and for that purpose the speaker shall be reckoned as a member.

49. Questions arising in the house of commons shall be decided by a majority of voices other than that of the speaker, and when the voices are equal, but not otherwise, the speaker shall have a vote.

50. Every house of commons shall continue for five years from the day of the return of the writs for choosing the house (subject to be sooner dissolved by the governor-general), and no longer.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four provinces shall be readjusted by such authority, in such manner, and from such time as the parliament of Canada from time to time provides, subject and according to the following rules:

1) Quebec shall have the fixed number of sixty-five members:

2) There shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number of sixty-five bears to the number of the population of Quebec (so ascertained):

3) In the computation of the number of members for a province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded; but a fractional part exceeding one-half of that number shall be equivalent to the whole number:

4) On any such readjustment the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one-twentieth part or upwards:

5) Such readjustment shall not take effect until the termination of the then existing parliament.

52. The number of members of the house of commons may be from time to time increased by the parliament of Canada, provided the proportionate representation of the provinces prescribed by this act is not thereby disturbed.

Money Votes; Royal Assent

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the house of commons.

54. It shall not be lawful for the house of commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that house by message of the governor-general in the session in which such vote, resolution, address, or bill is proposed.

55. Where a bill passed by the houses of the parliament is presented to the governor-general for the queen's assent, he shall declare, according to his discretion, but subject to the provisions of this act and to her majesty's instructions, either that he assents thereto in the queen's name, or that he withholds the queen's assent, or that he reserves the bill for the signification of the queen's pleasure.

56. Where the governor-general assents to a bill in the queen's name, he shall by the first convenient opportunity send an authentic copy of the act to one of her majesty's principal secretaries of state, and if the queen in council within two years after receipt thereof by the secretary of state thinks fit to disallow the act, such disallowance (with a certificate of the secretary of state of the day on which the act was received by him) being signified by the governor-general, by speech or message to each of the houses of the

parliament or by proclamation, shall annul the act from and after the day of such signification.

57. A bill reserved for the signification of the queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the governor-general for the queen's assent, the governor-general signifies, by speech or message to each of the houses of the parliament or by proclamation, that it has received the assent of the queen in council.

An entry of every such speech, message or proclamation shall be made in the journal of each house, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

V. PROVINCIAL CONSTITUTIONS

EXECUTIVE POWER

58. For each province there shall be an officer, styled the lieutenant-governor, appointed by the governor-general in council by instrument under the great seal of Canada.

59. A lieutenant-governor shall hold office during the pleasure of the governor-general; but any lieutenant-governor appointed after the commencement of the first session of the parliament of Canada shall not be removable within five years from his appointment, except for cause assigned which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the senate and to the house of commons, within one week thereafter if the parliament is then sitting, and if not then within one week after the commencement of the next session of the parliament.

60. The salaries of the lieutenant-governors shall be fixed and provided by the parliament of Canada.

61. Every lieutenant-governor shall, before assuming the duties of his office, make and subscribe before the governor-

general or some person authorized by him, oaths of allegiance and office similar to those taken by the governor-general.

62. The provisions of this act referring to the lieutenant-governor extend and apply to the lieutenant-governor for the time being of each province or other the chief executive officer or administrator for the time being carrying on the government of the province, by whatever title he is designated.

63. The executive council of Ontario and of Quebec shall be composed of such persons as the lieutenant-governor from time to time thinks fit, and in the first instance of the following officers, namely,—the attorney-general, the secretary and registrar of the province, the treasurer of the province, the commissioner of crown lands, and the commissioner of agriculture and public works, with, in Quebec, the speaker of the legislative council and the solicitor-general.

64. The constitution of the executive authority in each of the provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this act, continue as it exists at the union until altered under the authority of this act.

65. All powers, authorities and functions, which under any act of the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland, or of the legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the union vested in or exercisable by the respective governors or lieutenant-governors of those provinces, with the advice, or with the advice and consent, of the respective executive councils thereof, or in conjunction with those councils or with any number of members thereof, or by those governors or lieutenant-governors individually, shall, as far as the same are capable of being exercised after the union in relation to the government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the lieutenant-governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective executive councils or

any members thereof, or by the lieutenant-governor individually, as the case requires, subject nevertheless (except with respect to such as exist under acts of the parliament of Great Britain or of the parliament of the united kingdom of Great Britain and Ireland), to be abolished or altered by the respective legislatures of Ontario and Quebec.

66. The provisions of this act referring to the lieutenant-governor in council shall be construed as referring to the lieutenant-governor of the province acting by and with the advice of the executive council thereof.

67. The governor-general in council may from time to time appoint an administrator to execute the office and functions of lieutenant-governor during his absence, illness, or other inability.

68. Unless and until the executive government of any province otherwise directs with respect to that province, the seats of government of the provinces shall be as follows, namely,—of Ontario, the city of Toronto; of Quebec, the city of Quebec; of Nova Scotia, the city of Halifax; and of New Brunswick, the city of Fredericton.

LEGISLATIVE POWER

1. ONTARIO

69. There shall be a legislature for Ontario, consisting of the lieutenant-governor and of one house, styled the legislative assembly of Ontario.

70. The legislative assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the first schedule to this act.

2. QUEBEC

71. There shall be a legislature for Quebec, consisting of the lieutenant-governor and two houses, styled the legislative council of Quebec and the legislative assembly of Quebec.

72. The legislative council of Quebec shall be composed

of twenty-four members, to be appointed by the lieutenant-governor in the queen's name by instrument under the great seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this act referred to, and each holding office for the term of his life, unless the legislature of Quebec otherwise provides under the provisions of this act.

73. The qualifications of the legislative councillors of Quebec shall be the same as those of the senators for Quebec.

74. The place of a legislative councillor of Quebec shall become vacant in the cases, *mutatis mutandis*, in which the place of senator becomes vacant.

75. When a vacancy happens in the legislative council of Quebec by resignation, death, or otherwise, the lieutenant-governor, in the queen's name, by instrument under the great seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

76. If any question arises respecting the qualifications of a legislative councillor of Quebec, or a vacancy in the legislative council of Quebec, the same shall be heard and determined by the legislative council.

77. The lieutenant-governor may, from time to time, by instrument under the great seal of Quebec, appoint a member of the legislative council of Quebec to be speaker thereof, and may remove him and appoint another in his stead.

78. Until the legislature of Quebec otherwise provides, the presence of at least ten members of the legislative council, including the speaker, shall be necessary to constitute a meeting for the exercise of its powers.

79. Questions arising in the legislative council of Quebec shall be decided by a majority of voices, and the speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

80. The legislative assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five

electoral divisions or districts of Lower Canada in this act referred to, subject to alteration thereof by the legislature of Quebec: provided that it shall not be lawful to present to the lieutenant-governor of Quebec for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this act, unless the second and third readings of such bill have been passed in the legislative assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the legislative assembly to the lieutenant-governor stating that it has been so passed.

3. ONTARIO AND QUEBEC

81. The legislatures of Ontario and Quebec, respectively, shall be called together not later than six months after the union.

82. The lieutenant-governor of Ontario and of Quebec shall, from time to time, in the queen's name, by instrument under the great seal of the province, summon and call together the legislative assembly of the province.

83. Until the legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario, or in Quebec, any office, commission or employment, permanent or temporary, at the nomination of the lieutenant-governor, to which an annual salary, or any fee, allowance, emolument or profit of any kind or amount whatever from the province is attached, shall not be eligible as a member of the legislative assembly of the respective province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the executive council of the respective province, or holding any of the following offices, that is to say: the offices of attorney-general, secretary and registrar of the province, treasurer of the province, commissioner of crown lands, and commissioner of agriculture

and public works, and in Quebec, solicitor-general, or shall disqualify him to sit or vote in the house for which he is elected, provided he is elected while holding such office.

84. Until the legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the union are in force in those provinces respectively, relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members, and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the respective legislative assemblies of Ontario and Quebec.

Provided that until the legislature of Ontario otherwise provides, at any election for a member of the legislative assembly of Ontario for the district of Algoma, in addition to persons qualified by the law of the province of Canada to vote, every male British subject aged twenty-one years or upwards, being a householder, shall have a vote.

85. Every legislative assembly of Ontario and every legislative assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject, nevertheless, to either the legislative assembly of Ontario or the legislative assembly of Quebec being sooner dissolved by the lieutenant-governor of the province), and no longer.

86. There shall be a session of the legislature of Ontario and of that of Quebec once at least in every year so that twelve months shall not intervene between the last sitting of

the legislature in each province in one session and its first sitting in the next session.

87. The following provisions of this act respecting the house of commons of Canada, shall extend and apply to the legislative assemblies of Ontario and Quebec, that is to say,—the provisions relating to the election of a speaker orginally and on vacancies, the duties of the speaker, the absence of the speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such legislative assembly.

4. NOVA SCOTIA AND NEW BRUNSWICK

88. The constitution of the legislature of each of the provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this act, continue as it exists at the union until altered under the authority of this act; and the house of assembly of New Brunswick existing at the passing of this act shall, unless sooner dissolved, continue for the period for which it was elected.

5. ONTARIO, QUEBEC AND NOVA SCOTIA

89. Each of the lieutenant-governors of Ontario, Quebec, and Nova Scotia, shall cause writs to be issued for the first election of members of the legislative assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the governor-general directs, and so that the first election of member of assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the house of commons of Canada for that electoral district.

6. THE FOUR PROVINCES

90. The following provisions of this act respecting the parliament of Canada, namely,—the provisions relating to

appropriation and tax bills, the recommendation of money votes, the assent to bills, the disallowance of acts and the signification of pleasure on bills reserved,—shall extend and apply to the legislatures of the several provinces as if those provisions were here re-enacted and made applicable in terms to the respective provinces and the legislatures thereof, with the substitution of the lieutenant-governor of the province for the governor-general, of the governor-general for the queen and for a secretary of state, of one year for two years, and of the province for Canada.

VI. DISTRIBUTION OF LEGISLATIVE POWERS

POWERS OF THE PARLIAMENT

91. It shall be lawful for the queen, by and with the advice and consent of the senate and house of commons, to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this act) the exclusive legislative authority of the parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

1) The public debt and property.

2) The regulation of trade and commerce.

3) The raising of money by any mode or system of taxation.

4) The borrowing of money on the public credit.

5) Postal service.

6) The census and statistics.

7) Militia, military and naval service and defence.

8) The fixing of and providing for the salaries and allowances of civil and other officers of the government of Canada.

9) Beacons, buoys, lighthouses and Sable island.

10) Navigation and shipping.

11) Quarantine and the establishment and maintenance of marine hospitals.

12) Sea coast and inland fisheries.

13) Ferries between a province and any British or foreign country, or between two provinces.

14) Currency and coinage.

15) Banking, incorporation of banks and the issue of paper money.

16) Savings banks.

17) Weights and measures.

18) Bills of exchange and promissory notes.

19) Interest.

20) Legal tender.

21) Bankruptcy and insolvency.

22) Patents of invention and discovery.

23) Copyrights.

24) Indians and lands reserved for the Indians.

25) Naturalization and aliens.

26) Marriage and divorce.

27) The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.

28) The establishment, maintenance and management of penitentiaries.

29) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES

92. In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

1) The amendment from time to time, notwithstanding anything in this act, of the constitution of the province, except as regards the office of lieutenant-governor.

2) Direct taxation within the province in order to the raising of a revenue for provincial purposes.

3) The borrowing of money on the sole credit of the province.

4) The establishment and tenure of provincial offices, and the appointment and payment of provincial officers.

5) The management and sale of the public lands belonging to the province, and the timber and wood thereon.

6) The establishment, maintenance, and management of public and reformatory prisons in and for the province.

7) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the province, other than marine hospitals.

8) Municipal institutions in the province.

9) Shop, saloon, tavern, auctioneer, and other licenses, in order to the raising of a revenue for provincial, local, or municipal purposes.

10) Local works and undertakings, other than such as are of the following classes:—

a) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province:

b) Lines of steamships between the province and any British or foreign country:

c) Such works as, although wholly situate within the province, are before or after their execution declared by the

parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.

11) The incorporation of companies with provincial objects.

12) The solemnization of marriage in the province.

13) Property and civil rights in the province.

14) The administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

15) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

16) Generally all matters of a merely local or private nature in the province.

EDUCATION

93. In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

2) All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the queen's Roman Catholic subjects, shall be and the same are hereby extended to the dissentient schools of the queen's Protestant and Roman Catholic subjects in Quebec.

3) Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the governor-general in council from any act or decision

of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the queen's subjects in relation to education.

4) In case any such provincial law as from time to time seems to the governor-general in council requisite for the due execution of the provisions of this section is not made, or in case any decision of the governor-general in council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the governor-general in council under this section.

UNIFORMITY OF LAWS IN ONTARIO, NOVA SCOTIA, AND NEW BRUNSWICK

94. Notwithstanding anything in this act, the parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the courts in those three provinces, and from and after the passing of any act in that behalf, the power of the parliament of Canada to make laws in relation to any matter comprised in any such act shall, notwithstanding anything in this act, be unrestricted; but any act of the parliament of Canada making provision for such uniformity shall not have effect in any province unless and until it is adopted and enacted as law by the legislature thereof.

AGRICULTURE AND IMMIGRATION

95. In each province the legislature may make laws in relation to agriculture in the province, and to immigration into the province; and it is hereby declared that the parliament of Canada may from time to time make laws in relation

to agriculture in all or any of the provinces and to immigration into all or any of the provinces; and any law of the legislature of a province, relative to agriculture or to immigration, shall have effect in and for the province, as long and as far only as it is not repugnant to any act of the parliament of Canada.

VII. JUDICATURE

96. The governor-general shall appoint the judges of the superior, district and county courts in each province, except those of the courts of probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the courts in those provinces, are made uniform, the judges of the courts of those provinces appointed by the governor-general shall be selected from the respective bars of those provinces.

98. The judges of the courts of Quebec shall be selected from the bar of that province.

99. The judges of the superior courts shall hold office during good behaviour, but shall be removable by the governor-general on address of the senate and house of commons.

100. The salaries, allowances and pensions of the judges of the superior, district and county courts (except the courts of probate in Nova Scotia and New Brunswick), and of the admiralty courts in cases where the judges thereof are for the time being paid by salary, shall be fixed and provided by the parliament of Canada.

101. The parliament of Canada may, notwithstanding anything in this act, from time to time provide for the constitution, maintenance and organization of a general court of appeal for Canada, and for the establishment of any additional courts for the better administration of the laws of Canada.

VIII. REVENUES; DEBTS; ASSETS; TAXATION

102. All duties and revenues over which the respective legislatures of Canada, Nova Scotia and New Brunswick before and at the union had and have power of appropriation, except such portions thereof as are by this act reserved to the respective legislatures of the provinces, or are raised by them in accordance with the special powers conferred on them by this act, shall form one consolidated revenue fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this act provided.

103. The consolidated revenue fund of Canada shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the governor-general in council until the parliament otherwise provides.

104. The annual interest of the public debts of the several provinces of Canada, Nova Scotia and New Brunswick at the union shall form the second charge on the consolidated revenue fund of Canada.

105. Unless altered by the parliament of Canada, the salary of the governor-general shall be ten thousand pounds sterling money of the united kingdom of Great Britain and Ireland, payable out of the consolidated revenue fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this act charged on the consolidated revenue fund of Canada, the same shall be appropriated by the parliament of Canada, for the public service.

107. All stocks, cash, bankers' balances, and securities for money belonging to each province at the time of the union, except as in this act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the provinces at the union.

108. The public works and property of each province enumerated in the third schedule to this act shall be the property of Canada.

109. All lands, mines, minerals, and royalties belonging to the several provinces of Canada, Nova Scotia and New Brunswick at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the province in the same.

110. All assets connected with such portions of the public debt of each province as are assumed by that province shall belong to that province.

111. Canada shall be liable for the debts and liabilities of each province existing at the union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the province of Canada exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

113. The assets enumerated in the fourth schedule to this act, belonging at the union to the province of Canada, shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union eight million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the union amount to eight million and seven million dollars respectively, they shall respectively

receive, by half-yearly payments in advance from the government of Canada, interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several provinces shall retain all their respective public property not otherwise disposed of in this act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

118. The following sums shall be paid yearly by Canada to the several provinces for the support of their governments and legislatures:

Ontario	$80,000
Quebec	70,000
Nova Scotia	60,000
New Brunswick	50,000
	$260,000

and an annual grant in aid of each province shall be made, equal to eighty cents per head of the population, as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each province; but the government of Canada shall deduct from such grants, as against any province, all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in this act.

119. New Brunswick shall receive by half-yearly payments in advance from Canada, for a period of ten years from the union, an additional allowance of sixty-three thousand dollars per annum; but as long as the public debt of that province remains under seven million dollars, a deduction equal to

the interest at five per centum per annum on such deficiency shall be made from that allowance of sixty-three thousand dollars.

120. All payments to be made under this act, or in discharge of liabilities created under any act of the provinces of Canada, Nova Scotia and New Brunswick, respectively, and assumed by Canada shall, until the parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the governor-general in council.

121. All articles of the growth, produce, or manufacture of any one of the provinces shall, from and after the union, be admitted free into each of the other provinces.

122. The customs and excise laws of each province shall, subject to the provisions of this act, continue in force until altered by the parliament of Canada.

123. Where customs duties are at the union leviable on any goods, wares or merchandises in any two provinces, those goods, wares and merchandises may, from and after the union, be imported from one of those provinces into the other of them on proof of payment of the customs duty leviable thereon in the province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the province of importation.

124. Nothing in this act shall affect the right of New Brunswick to levy the lumber dues provided in chapter fifteen of title three of the revised statutes of New Brunswick, or in any act amending that act before or after the union, and not increasing the amount of such dues; but the lumber of any of the provinces other than New Brunswick shall not be subject to such dues.

125. No lands or property belonging to Canada or any province shall be liable to taxation.

126. Such portions of the duties and revenues over which the respective legislatures of Canada, Nova Scotia and New

Brunswick had before the union power of appropriation as are by this act reserved to the respective governments or legislatures of the provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this act, shall in each province form one consolidated revenue fund to be appropriated for the public service of the province.

IX. MISCELLANEOUS PROVISIONS

GENERAL

127. If any person being, at the passing of this act, a member of the legislative council of Canada, Nova Scotia, or New Brunswick, to whom a place in the senate is offered, does not within thirty days thereafter, by writing under his hand, addressed to the governor-general of the province of Canada, or to the lieutenant-governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this act a member of the legislative council of Nova Scotia or New Brunswick, accepts a place in the senate, shall thereby vacate his seat in such legislative council.

128. Every member of the senate or house of commons of Canada shall, before taking his seat therein, take and subscribe before the governor-general or some person authorized by him, and every member of a legislative council or legislative assembly of any province shall, before taking his seat therein, take and subscribe before the lieutenant-governor of the province, or some person authorized by him, the oath of allegiance contained in the fifth schedule to this act; and every member of the senate of Canada and every member of the legislative council of Quebec shall also, before taking his seat therein take and subscribe before the governor-general, or some person authorized by him, the declaration of qualifition contained in the same schedule.

129. Except as otherwise provided by this act, all laws in

force in Canada, Nova Scotia or New Brunswick at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative and ministerial, existing therein at the union, shall continue, in Ontario, Quebec, Nova Scotia and New Brunswick, respectively, as if the union had not been made; subject, nevertheless (except with respect to such as are enacted by or exist under acts of the parliament of Great Britain or of the parliament of the united kingdom of Great Britain and Ireland), to be repealed, abolished or altered by the parliament of Canada, or by the legislature of the respective province, according to the authority of the parliament or of that legislature under this act.

130. Until the parliament of Canada otherwise provides, all officers of the several provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces, shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties, as if the union had not been made.

131. Until the parliament of Canada otherwise provides, the governor-general in council may from time to time appoint such officers as the governor-general in council deems necessary or proper for the effectual execution of this act.

132. The parliament and government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any province thereof, as part of the British empire, towards foreign countries, arising under treaties between the empire and such foreign countries.

133. Either the English or the French language may be used by any person in the debates of the houses of the parliament of Canada and of the houses of the legislature of Quebec; and both those languages shall be used in the respective records and journals of those houses; and either of those

languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this act, and in or from all or any of the courts of Quebec.

The acts of the parliament of Canada and of the legislature of Quebec shall be printed and published in both those languages.

ONTARIO AND QUEBEC

134. Until the legislature of Ontario or of Quebec otherwise provides, the lieutenant-governors of Ontario and Quebec may each appoint, under the great seal of the province, the following officers, to hold office during pleasure, that is to say,—the attorney-general, the secretary and registrar of the province, the treasurer of the province, the commissioner of crown lands, and the commissioner of agriculture and public works, and in the case of Quebec, the solicitor-general; and may by order of the lieutenant-governor in council from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this act vested in or imposed on the attorney-general, solicitor-general, secretary and registrar of the province of Canada, minister of finance, commissioner of crown lands, commissioner of public works, and minister of agriculture and receiver general, by any law, statute or ordinance of Upper Canada, Lower Canada or Canada, and not repugnant to this act, shall be vested in or imposed on any officer to be appointed by the lieutenant-

governor for the discharge of the same or any of them; and the commissioner of agriculture and public works shall perform the duties and functions of the office of minister of agriculture at the passing of this act imposed by the law of the province of Canada as well as those of the commissioner of public works.

136. Until altered by the lieutenant-governor in council, the great seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the provinces of Upper Canada and Lower Canada respectively before their union as the province of Canada.

137. The words "and from thence to the end of the then next ensuing session of the legislature," or words to the same effect used in any temporary act of the province of Canada not expired before the union, shall be construed to extend and apply to the next session of the parliament of Canada, if the subject matter of the act is within the powers of the same as defined by this act, or to the next sessions of the legislatures of Ontario and Quebec, respectively, if the subject matter of the act is within the powers of the same as defined by this act.

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec" in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

139. Any proclamation under the great seal of the province of Canada, issued before the union, to take effect at a time which is subsequent to the union, whether relating to that province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the union had not been made.

140. Any proclamation which is authorized by any act of the legislature of the province of Canada to be issued under the great seal of the province of Canada, whether

relating to that province or to Upper Canada or to Lower Canada, and which is not issued before the union may be issued by the lieutenant-governor of Ontario or of Quebec, as its subject matter requires, under the great seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

141. The penitentiary of the province of Canada shall, until the parliament of Canada otherwise provides, be and continue the penitentiary of Ontario and of Quebec.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the government of Ontario, one by the government of Quebec and one by the government of Canada; and the selection of the arbitrators shall not be made until the parliament of Canada and the legislatures of Ontario and Quebec have met; and the arbitrator chosen by the government of Canada shall not be a resident either in Ontario or in Quebec.

143. The governor-general in council may from time to time order that such and so many of the records, books and documents of the province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The lieutenant-governor of Quebec may from time to time by proclamation under the great seal of the province, to take effect from a day to be appointed therein, constitute townships in those parts of the province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

X. INTERCOLONIAL RAILWAY

145. Inasmuch as the provinces of Canada, Nova Scotia and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the government and parliament of Canada to provide for the commencement, within six months after the union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

XI. ADMISSION OF OTHER COLONIES

146. It shall be lawful for the queen, by and with the advice of her majesty's most honourable privy council, on addresses from the houses of the parliament of Canada and from the houses of the respective legislatures of the colonies or provinces of Newfoundland, Prince Edward Island and British Columbia to admit those colonies or provinces, or any of them, into the union, and on address from the houses of the parliament of Canada to admit Rupert's Land and the Northwestern territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the queen thinks fit to approve, subject to the provisions of this act; and the provisions of any order in council in that behalf shall have effect as if they had been enacted by the parliament of the united kingdom of Great Britain and Ireland.[5]

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to

[5] The power to erect or to admit new provinces was extended by the British North America Act of 1871. See p. 221.

a representation in the senate of Canada of four members, and (notwithstanding anything in this act), in case of the admission of Newfoundland, the normal number of senators shall be seventy-six and their maximum number shall be eighty-two; but Prince Edward Island, when admitted, shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the senate, divided by this act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those provinces shall not be increased at any time beyond ten, except under the provisions of this act, for the appointment of three or six additional senators under the direction of the queen.

THE BRITISH NORTH AMERICA ACT, 1871

(June 29, 1871)

An Act respecting the establishment of Provinces in the Dominion of Canada

Whereas doubts have been entertained respecting the powers of the parliament of Canada to establish provinces in territories admitted, or which may hereafter be admitted into the Dominion of Canada, and provide for the representation of such provinces in the said parliament, and it is expedient to remove such doubts, and to vest such powers in the said parliament:

Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:—

1. This act may be cited for all purposes as "The British North America Act, 1871."

2. The parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province, and for its representation in the said parliament.

3. The parliament of Canada may from time to time, with the consent of the legislature of any province of the said Dominion, increase, diminish or otherwise alter the limits of such province, upon such terms and conditions as may be agreed to by the said legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any province affected thereby.

4. The parliament of Canada may from time to time make provision for the administration, peace, order and good government of any territory not for the time being included in any province.

5. The following acts passed by the said parliament of Canada, and intituled respectively: "An act for the temporary government of Rupert's Land and the Northwestern Territory when united with Canada," and "An act to amend and continue the act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the province of Manitoba," shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the queen's name, of the governor-general of the said Dominion of Canada.

6. Except as provided by the third section of this act, it shall not be competent for the parliament of Canada to alter the provisions of the last mentioned act of the said parliament, in so far as it relates to the province of Manitoba, or

of any other act hereafter establishing new provinces in the said Dominion, subject always to the right of the legislature of the province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the legislative assembly, and to make laws respecting elections in the said province.

THE PARLIAMENT OF CANADA ACT, 1875

(July 19, 1875)

An Act to remove doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867.

Whereas by section eighteen of the British North America Act, 1867, it is provided as follows:

"The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by the members thereof respectively, shall be such as are from time to time defined by act of parliament of Canada, but so that the same shall never exceed those at the passing of this act, held, enjoyed and exercised by the commons house of parliament of the united kingdom of Great Britain and Ireland and by the members thereof."

And whereas doubts have arisen with regard to the power of defining by an act of the parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts:

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:—

1. Section eighteen of the British North America Act, 1867, is hereby repealed without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed:

The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by the members thereof, respectively, shall be such as are from time to time defined by act of the parliament of Canada, but so that any act of the parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such act, held, enjoyed and exercised by the commons house of parliament of the united kingdom of Great Britain and Ireland and by the members thereof.

2. The act of the parliament of Canada passed in the thirty-first year of the reign of her present majesty, chapter twenty-four, intituled "An act to provide for oaths to witnesses being administered in certain cases for the purposes of either house of parliament," shall be deemed to be valid, and to have been valid as from the date at which the royal assent was given thereto by the governor-general of the Dominion of Canada.

3. This act may be cited as "The Parliament of Canada Act, 1875."

THE BRITISH NORTH AMERICA ACT, 1886

(June 25, 1886)

An Act respecting the representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any Province.

Whereas it is expedient to empower the parliament of Canada to provide for the representation in the senate and house of commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province:

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:—

1. The parliament of Canada may, from time to time, make provision for the representation in the senate and house of commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

2. Any act passed by the parliament of Canada before the passing of this act for the purpose mentioned in this act shall, if not disallowed by the queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in her majesty's name, of the governor-general of Canada.

It is hereby declared that any act passed by the parliament of Canada, whether before or after the passing of this act, for the purpose mentioned in this act, or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of senators or the number of members of the house of commons specified in the last mentioned act is increased by the number of senators or of members, as the case may be, provided by any such act of the parliament of Canada, for the representation of any provinces or territories of Canada.

3. This act may be cited as the British North America Act, 1886.

This act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

CHILE

The Chilean revolutionary movement began in 1810. The first Chilean Congress adopted a temporary organization of government on August 14, 1811; a provisional constitution of 1812 recognized Ferdinand VII of Spain as king, but required that he accept the constitution of Chile. From 1812 to 1825 there were not less than four constitutions; the last of these, that of December 29, 1823, was abrogated in 1825 and for the three succeeding years the country was governed without a written constitution. In 1826 the legislature declared in favor of the establishment of a federal republic; a proposed federal constitution was drawn up, but received no further consideration.

A constitutional convention met on February 28, 1828, and a constitution was adopted on August 8 of the same year. This constitution was so liberal as to displease many of the people of the country. Civil war ensued in which the conservative party was successful. Another constitutional convention was assembled, and a new constitution was adopted on May 25, 1833.

The constitution of 1833 remained unchanged until 1871. From 1833 to 1861 the government was republican only in name, and was actually under the complete control of the president. After 1861 the people were permitted to enjoy a greater degree of political liberty.

From 1871 to 1893 the constitution was nine times amended; practically one-third of its articles were changed during this time, and almost all amendments were in the direction of liberalizing the national institutions. Executive usurpation was one of the dangers sought to be guarded against. By an amendment of August 8, 1871, the president was made ineligible to succeed himself. During the Balmaceda usurpation the Executive Committee (Comision Conservadora) proved too weak to restrain the president, and by amendment of December 12, 1891, it was given the additional power to summon the Congress in extraordinary session.

SELECT BIBLIOGRAPHY

CHILE. *Recopilación de leyes constitucionales y administrativas vigentes en 18 de Setiembre de 1893.* Por Eduardo Orrego Ovalle y Ricardo Anguita Acuña. (Santiago de Chile, Imprenta Nacional, 1893.)

CHILE. *Constitución política y lei de elecciones.* (Santiago de Chile, Imprenta Nacional, 1903.)

LASTARRIA, J. V. *Elementos de derecho publico.* Segunda parte: *La constitución política de la republica de Chile comentada.* (2d ed., Ghent, 1865.)

HUNEEUS, JORGE. *Obras.* (Santiago de Chile, 1891, 3 vols. Vols. 1 and 2, 2d ed.) The first two volumes of these works are devoted to an extensive commentary on the Chilean constitution, entitled *La Constitución ante el Congreso;* Vol. III is entitled *Estudios sobre derecho constitucional comparado,* but is principally a study of the Chilean constitution.

RIVERA, J. DOMINGO AMUNÁTEGUI. *Resúmen de derecho administrativo aplicado a la lejislacion de Chile.* (Montevideo, 1900.)

CONSTITUTION OF CHILE[1]

(May 25, 1833)

Whereas the Grand Convention has sanctioned and decreed the following reform of the political constitution of Chile promulgated in 1828, which the National Congress has attested, in the following terms:

In the name of God, the omnipotent creator and supreme legislator of the universe:

The Grand Convention of Chile called by the law of October 1, 1831, to reform and amend the political constitution of the nation, promulgated August 8, 1828, after having examined that constitution and adopted those of its institutions thought advisable for the prosperity and good government of the state, and after having modified and suppressed others and added those provisions which were also considered suitable to promote so important an end, decrees that all the

[1] In the preparation of this text assistance has been received from the translation issued in 1899 by Mr. C. W. Tooke.

provisions contained therein are repealed, and that the following is the only political constitution of the Republic of Chile:

CHAPTER I. THE FORM OF GOVERNMENT

ARTICLE 1. The government of Chile is popular and representative.

ART. 2. The Republic of Chile is one and indivisible.

ART. 3. Sovereignty resides essentially in the nation, which delegates its exercise to the authorities established by this constitution.

CHAPTER II. RELIGION

ART. 4. The religion of the Republic of Chile is the apostolic Roman Catholic, to the exclusion of the public exercise of any other.[2]

CHAPTER III. CHILEANS

ART. 5. The following are Chileans:

1) Those born within the territory of Chile.

2) The children of a Chilean father or mother, born in foreign territory, by the mere fact of their becoming domiciled in Chile. The children of Chileans born in foreign territory while the father is in the actual service of the Republic are Chileans for all purposes for which the fundamental laws or other laws require birth in Chilean territory.

3) Foreigners who, after one year's residence in the Republic, declare their desire to settle in Chile, before the municipal authorities of the district in which they reside, and apply for naturalization papers.

4) Those who obtain from Congress a special grant of naturalization.

ART. 6. The municipality of the department in which foreign-born persons reside shall declare whether or not such persons are entitled to naturalization in accordance with clause

[2] By law of July 27, 1865, persons not of the Catholic faith may worship in private, and may maintain private schools for the instruction of their children.

3 of the foregoing article. Upon a favorable declaration of the proper municipality, the President of the Republic shall issue the proper naturalization papers.

ART. 7. Chileans who have attained the age of twenty-one years, who can read and write, and are inscribed in the electoral register of the department, are active citizens entitled to vote.

Such registers shall be public and shall continue for the time specified by law.

Registrations may be made at any time and the registers shall not be closed except for the term fixed by the law of elections.

ART. 8. Active citizenship, with the right to vote, is suspended for the following causes:

1) Physical or moral disability which prevents free and deliberate action.

2) Employment as a domestic servant.

3) Prosecution as a person guilty of a crime for which the penality is corporal or infamous punishment.

ART. 9. Citizenship is lost for the following causes:

1) Condemnation to corporal or infamous punishment.

2) Fraudulent bankruptcy.

3) Naturalization in a foreign country.

4) Acceptance of employment, office, or pension from a foreign government without the special permission of Congress.

Those who have lost their citizenship for any of the causes mentioned in this article may obtain rehabilitation from the Senate.

CHAPTER IV. PUBLIC RIGHTS OF CHILE

ART. 10. The constitution guarantees to all inhabitants of the Republic:

1) Equality before the law. There shall be no privileged classes in Chile.

2) Admission to all public offices and employments, without other conditions than those established by law.

3) Equal distribution of imposts and taxes in proportion to property, and equal distribution of all other public charges. A special law shall determine the method of recruiting the land and naval forces.

4) Liberty to dwell anywhere within the Republic, to move from one place to another, or to leave its territory, respecting, however, the police regulations and the rights of other persons; no one shall be detained, arrested, or exiled except in the manner provided by law.

5) Inviolability of all property, without distinction as to whether it belongs to individuals or to corporations. No one shall be deprived of his property or of any part of it, however small it may be, or of any rights relating thereto, except by virtue of a judicial decision, except in the cases where the interests of the state, determined by law, require the use or appropriation of any property. In such cases the owner shall be first paid the compensation which is agreed upon with him or which is determined by a jury of competent men.

6) The right to assemble without previous permission and without arms.

Meetings held in squares, streets, and other public places shall always be subject to police regulation.

The right to form associations without previous permission.

The right of petition to the constituted authorities concerning any matter of public or private interest shall be subject to no other limitation than that of using respectful and proper terms in its exercise.

The liberty of teaching.

7) The liberty of publishing one's opinions through the press without previous censorship. No one shall be condemned for the abuse of this liberty except by virtue of a

judgment in which a jury has first found the offense, and after trial and sentence according to law.

CHAPTER V. THE NATIONAL CONGRESS

ART. 11. The legislative power shall be vested in a National Congress composed of two houses, one of Deputies and one of Senators.

ART. 12. Deputies and senators shall be inviolable for opinions expressed and votes cast by them in the discharge of their functions.

ART. 13. From the day of his election no senator or deputy shall be accused, prosecuted, or arrested, except when caught in the commission of an offense, unless the house of which he is a member previously authorizes the prosecution by declaring that there is ground for bringing the action.

ART. 14. After his election, no deputy or senator shall be proceeded against, unless before his respective house or before the Executive Committee, if his house is not in session. If it should be decided that there is ground for bringing the action, the accused shall be suspended from his legislative functions and subjected to the proper court.

ART. 15. In case any senator or deputy should be arrested in the commission of an offense he shall be immediately placed at the disposition of his own house or of the Executive Committee, with the record of his preliminary hearing. The house or the committee shall thereupon proceed in conformity with the provision of the second part of the preceding article.

THE HOUSE OF DEPUTIES

ART. 16. The House of Deputies shall be composed of members elected from the departments by direct vote, in the manner provided by the law of elections.

ART. 17. One deputy shall be elected for each thirty thousand inhabitants and for each fraction thereof of not less than fifteen thousand.

If a deputy should die or cease to belong to the house for any reason during the first two years of his term, a new election shall be held to choose his successor, in the manner and time provided by law.

A deputy who loses his seat by performing or accepting an incompatible office shall not be re-eligible until the next renewal of the house.

ART. 18. The House of Deputies shall be entirely renewed every three years.

ART. 19. The qualifications for eligibility to the office of deputy shall be:

1) Possession of the rights of a citizen elector.

2) An annual income of at least five hundred pesos.

ART. 20. Deputies shall be eligible for re-election indefinitely.

ART. 21. The following persons shall be ineligible to the office of deputy:

1) Members of religious orders, and parish priests and their assistants.

2) Judges of the superior courts and of the courts of first instance, and officers engaged in the public administration.

3) Intendants of provinces and governors of fortified places or of departments.

4) Persons who hold or guarantee contracts with the state concerning public works or concerning the supply of any kind of article.

5) Chileans referred to in clause 3 of Art. 5, unless they have been in the possession of their naturalization papers at least five years before being elected.

The office of deputy shall be gratuitous and shall be incompatible with municipal office and with any salaried public employment, or with any function or commission of a similar character. The person elected shall choose between the office of deputy and the employment, function, or commission which he holds, within a fortnight if he is within

the territory of the Republic, and within one hundred days if he is absent from the country. These terms shall be reckoned from the day of the approval of the election. Upon failure to make his choice within the required time, the elected person shall forfeit the office of deputy.

No deputy, from the time of his election until six months after the expiration of his term, shall be appointed to any salaried public office, commission, or employment.

This provision shall not apply in case of foreign war, nor shall it extend to the offices of President of the Republic, minister of state, or diplomatic agent; but only the offices conferred during a state of war, and the position of minister of state shall be compatible with the office of deputy.

A deputy, while in the exercise of his office, shall not make or become security for the contracts indicated in clause 4, and he shall cease to exercise his functions if he incurs the disqualification mentioned in clause 1.

THE SENATE

ART. 22. The Senate shall be composed of members elected by direct vote from the provinces, each of which shall elect one senator for every three deputies or fraction of two deputies.

ART. 23. Senators shall remain in office for six years, and shall be re-eligible indefinitely.

ART. 24. Senators shall be elected every three years, in the following manner:

Provinces which elect an even number of senators shall renew them by halves in the election of each three years.

The provinces which choose an uneven number shall elect one-half exclusive of the odd one at the first triennial election, leaving for the following triennial election the odd senator not renewed at the preceding election.

Provinces which elect only one senator shall make the renewal every six years.

ART. 25. If a senator should die or for any reason cease to be a member of the house before the last year of his term, the vacancy shall be filled for the remainder of the term by a new election, in the manner and time provided by law.

A senator who loses his seat by performing or accepting an incompatible employment shall not be re-eligible before the next triennial election.

ART. 26. The qualifications of a senator shall be:

1) Exercise of the rights of citizenship.

2) Attainment of the age of thirty-six years.

3) Never to have been condemned for a crime.

4) An annual income of at least two thousand pesos.

The provisions of Art. 21 regarding deputies shall also be applicable to senators.

POWERS OF CONGRESS AND SPECIAL POWERS OF EACH HOUSE

ART. 27. The following shall be exclusive powers of Congress:

1) The approval or disapproval of the accounts which the government shall annually present of the application of funds appropriated for the expenses of public administration.

2) The approval or disapproval of a declaration of war, upon the proposal of the President of the Republic.

3) The determination, upon the resignation of the President of the Republic from his office, as to whether the reasons given by him for this action are or are not such as to make it impossible for him to continue in office, and in consequence thereof, the acceptance or refusal of the resignation.

4) The determination, when doubt arises in the cases specified by Arts. 65 and 69, as to whether the disability which prevents the President from performing his functions is of such a character as to make necessary the holding of a new election.

5) The counting of the votes and the verification of the

election of the President of the Republic, in conformity with Arts. 58 to 64.

6) The enactment of exceptional laws, to continue in force not longer than one year, restricting personal liberty and the liberty of printing and suspending or restricting the exercise of the liberty of assembly, whenever demanded by imperious necessity for the defense of the state, or for the preservation of the constitutional system or of internal peace.

If such laws impose penalties, they shall always be applied by the established courts.

Except in the cases provided by this clause, no laws shall be passed suspending or restricting the liberties or rights guaranteed by Art. 10.

ART. 28. A law shall be required:

1) To impose taxes of any kind; to abolish existing taxes; and to provide in case of necessity for the apportionment of taxes among the provinces or departments.

2) To determine annually the appropriations for the public administration.

3) To determine, also, each year, the strength of the land and naval forces to be maintained in time of peace or of war.

Taxes shall only be voted for a period of eighteen months; and the land and naval forces shall not be fixed for a longer period.

4) To contract debts; to ratify debts already contracted; and to set aside funds for their liquidation.

5) To erect new provinces or departments; to fix their boundaries; to establish ports for foreign commerce; and to establish custom-houses.

6) To fix the weight, fineness, value, form, and denomination of coins; and to regulate the system of weights and measures.

7) To permit the introduction of foreign troops into the territory of the Republic, and to determine the time of their stay therein.

8) To permit troops to be quartered permanently in the place where the sessions of Congress are held, or within ten leagues of such place.

9) To permit the departure of national troops from the territory of the Republic; and to fix the time of their return.

10) To create or abolish public offices; to define or modify their duties, to increase or diminish their salaries; to grant pensions, and to decree public honors for important services.

11) To grant general pardons or amnesty.

12) To fix the place of residence of the national authorities and of the sessions of Congress.

ART. 29. The following shall be exclusive powers of the House of Deputies:

1) To judge the elections of its members; to pass upon charges of nullity of such elections; to accept resignations of members if based upon physical or moral reasons of such a character as to make it impossible for them to perform their duties. To determine upon such reasons three-fourths of the deputies present must concur.

2) To bring impeachments before the Senate whenever it shall seem proper to enforce the responsibility of the following officers:

The ministers of state and councilors of state, in the manner and for the offenses specified in Arts. 83 to 88 and 98;

Generals of the army and navy, for having seriously compromised the security and honor of the nation, in the same manner as that provided for ministers of state and councilors of state;

Members of the Executive Committee for serious omission in the discharge of the duties imposed by part 2 of Art. 49;

Intendants of the provinces, for the crimes of treason, sedition, violation of the constitution, misappropriation of public funds, or extortion;

Members of the superior courts of justice, for grave dereliction of duty.

In the three last cases the House of Deputies shall first decide whether or not to consider the proposal of impeachment, and then after an interval of six days, whether the accusation is in order, first hearing the report of a committee of five persons chosen by lot from its own body. If the decision is in the affirmative, two deputies shall be named to formulate the charge and to conduct the case before the Senate.

ART. 30. The following shall be powers of the Senate:

1) To judge the elections of its members; to pass upon charges of nullity of such elections; to accept resignations of its members if based upon reasons which render it physically or morally impossible for them to discharge their duties. To pass upon such reasons there must be a concurrence of three-fourths of the senators present.

2) To try officers impeached by the House of Deputies, in accordance with Arts. 29 and 89.

3) To approve the nominations made by the President of the Republic to archbishoprics and bishoprics.

4) To give or refuse its consent to governmental acts in all cases required by the constitution.

THE ENACTMENT OF LAWS

ART. 31. Laws may be initiated in the Senate or in the House of Deputies upon the motion of any member, or by message from the President of the Republic. Laws concerning taxes of any kind and concerning the recruiting of troops shall originate only in the House of Deputies. Laws concerning amnesty shall originate only in the Senate.

ART. 32. Upon the approval of a bill in the house where it originated, it shall be submitted immediately to the other house for debate and approval within the period of the same session.

ART. 33. A bill rejected in the house where it originated

shall not again be proposed in that house until the session of the following year.

ART. 34. Upon the approval of a bill by both houses, it shall be sent to the President of the Republic, who, if he also approves it, shall order its promulgation as law.

ART. 35. If the President of the Republic disapproves a bill, he shall return it to the house in which it originated with such observations as he may think proper, within a period of one fortnight.

ART. 36. If the two houses agree with the objections made by the President of the Republic, the amended bill shall have the force of law and shall be returned to the President for promulgation.

If the two houses do not agree with the objections of the President of the Republic and insist upon their measure by a vote of two-thirds of the members present, such bill shall have the force of law and shall be returned to the President for promulgation.

Such objections shall not be voted upon in either house unless a majority of all its members is present.[3]

ART. 40. If the President of the Republic should not return the bill within one fortnight after its presentation to him, it shall be considered approved and shall be promulgated as law. If the sessions of the houses should have closed before the expiration of the fortnight within which the bill may have been returned, the President of the Republic shall return it during the first six days of the regular session of the following year.

ART. 41. A bill passed by one house and wholly rejected by the other shall be returned to the house where it originated, and shall there be considered anew, and if passed by a majority of two-thirds of the members present, it shall be sent again

[3] Arts. 37–39 were repealed by amendment of June 26, 1893. Before this amendment a bill vetoed by the President could not again be considered during the same year, and the President also had the power to propose definite amendments to any bill.

to the house which rejected it, and the latter house shall not be considered to have rejected it again unless by a vote of two-thirds of the members present.

ART. 42. A bill amended or corrected by the revising house shall be returned to the house where it originated, and if the latter approves such amendments or corrections, by a majority of all the members present, the bill shall be sent to the President of the Republic.

But if the amendments or corrections are rejected, the bill shall be sent a second time to the revising house; if this house again passes the amendments or corrections by a majority of two-thirds of the members present, the bill shall be returned to the other house, and the amendments or corrections shall not again be rejected by that house unless by a vote of two-thirds of the members present.

THE SESSIONS OF CONGRESS

ART. 43. The regular sessions of Congress shall commence on the first day of June of each year, and shall close on the first day of September.

ART. 44. When convened in extraordinary session Congress shall occupy itself with the business which occasioned its being convened, to the exclusion of all other matters.

ART. 45. The Senate shall not begin or continue in session without the presence of one-third of its members, nor shall the House of Deputies hold sessions without the presence of one-fourth of its members.

ART. 46. If Congress should be in extraordinary session upon the day fixed by the constitution for the opening of the regular session, the extraordinary session shall come to an end and the business for which it was convened shall continue to be considered in the regular session.

ART. 47. The Senate and House of Deputies shall open and close their regular and extraordinary sessions at the same time. The Senate, however, may convene without the pres-

ence of the House of Deputies for the exercise of the judicial functions referred to in clause 2 of Art. 30.

The House of Deputies may continue its sessions without the presence of the Senate if at the close of the regular session there are pending any impeachments against the officers mentioned in clause 2 of Art. 29, but for the exclusive purpose of deciding whether or not an impeachment should be made.

THE EXECUTIVE COMMITTEE (COMISION CONSERVADORA)

ART. 48. Before the close of the regular sessions of Congress, each house shall annually elect seven of its members, who shall together as a single body constitute the Executive Committee, and whose functions shall expire *de facto* on the thirty-first day of the following May.

ART. 49. The Executive Committee as the representative of Congress shall exercise the supervision belonging to that body over all of the branches of the public administration.

It shall therefore be its duty:

1) To watch over the observance of the constitution and of the laws, and to aid in the protection of individual rights.

2) To address representations to the President of the Republic that conduce to the above-mentioned objects, and to repeat the representations if the first do not appear sufficient.

When such representations relate to abuses or offenses committed by authorities responsible to the President of the Republic, and he does not adopt measures within his power to put an end to the abuses and to punish the guilty officer, it shall be understood that the President of the Republic and the minister of the proper department accept the responsibility for the acts of the subordinate authority as if such acts had been executed by their order or with their consent.

3) To give or refuse its consent to such acts of the President of the Republic as, according to the provisions of this constitution, require the concurrence of the Executive Committee.

4) To convene Congress in extraordinary session, whenever in its judgment such action is proper, or when a majority of the two houses request it in writing.

5) To report to Congress at its first meeting the measures which it has taken in the discharge of its duties.

The Committee is responsible to Congress for any failure to discharge the duties imposed upon it by the preceding clauses.

CHAPTER VI. THE PRESIDENT OF THE REPUBLIC

ART. 50. A citizen with the title of "President of the Republic of Chile" shall be the administrative head of the state and the supreme head of the nation.

ART. 51. The qualifications of the President of the Republic shall be:

1) Birth in the territory of Chile.

2) The qualifications necessary to be a member of the House of Deputies.

3) Age of at least thirty years.

ART. 52. The President of the Republic shall continue in office for a term of five years and shall not be eligible for the succeeding term.

ART. 53. For election a second time, or oftener, the period of one term shall always intervene between each such election.

ART. 54. The President of the Republic shall be elected by electors chosen by direct popular vote. The number of electors shall be three times the total number of deputies chosen by each department.

ART. 55. The electors shall be named by the departments upon the twenty-fifth day of June of the year in which the presidential term expires. The qualifications of electors shall be the same as those required of deputies.

ART. 56. The electors shall assemble on the twenty-fifth

day of July of the year in which the presidential term expires and shall proceed to the election of a President, in conformity with the general law of elections.

ART. 57. The electoral boards shall make two lists of all persons who have been voted for and after such lists have been signed by all of the electors, they shall be sent closed and sealed, one to the municipal authorities of the capital of the province, in whose archives it shall remain deposited and sealed, and the other to the Senate, where it shall be kept in the same manner until the thirtieth day of August.

ART. 58. On this day such lists shall be opened and read in a public joint session of the two houses, in the Senate Chamber, the president of the Senate presiding, and that body shall proceed to count the votes and if necessary to verify the election.

ART. 59. The person receiving a majority of all the votes shall be proclaimed President of the Republic.

ART. 60. In case the votes are so divided that no one obtains a majority, Congress shall elect one of the two persons who has obtained the highest number of votes.

ART. 61. If the highest number of votes obtained prove to be in favor of more than two persons, Congress shall choose from among all of them.

ART. 62. If the highest vote should prove to be in favor of only one person, and two or more persons have the next highest vote, Congress shall make its choice from among all those who have obtained the first and second highest votes.

ART. 63. The election in Congress shall be by majority vote and by secret ballot. If no one obtains a majority on the first ballot, a second ballot shall be taken, the voting being limited to the two persons who received the greatest number of votes on the first ballot. In case of tie, another ballot shall be taken, and if a tie again results, the president of the Senate shall have a deciding vote.

ART. 64. These elections shall not be canvassed or veri-

fied unless there is present a majority of all of the members of each house.

ART. 65. When the President of the Republic commands the army in person, or when, because of illness, absence from the territory of the Republic, or other serious cause, he is not able to perform the duties of his office, the minister of the interior shall take his place with the title of vice-president of the Republic. Should the disability of the President be temporary, such minister shall occupy his place until the President is able to perform his duties. In case of death, resignation, or any other kind of permanent disability, which cannot be removed before the termination of the constitutional five-year period, the minister vice-president, within the first ten days after assuming the office, shall issue the proper orders for the holding of a new election for President, in the manner provided by the constitution.

ART. 66. In default of a minister of the interior the senior minister of state shall take the place of the President; in default of all the ministers of state, the senior councilor of state who is not an ecclesiastic shall take his place.

ART. 67. The President of the Republic shall not leave the territory of the state during his term of office or within one year thereafter, without the consent of Congress.

ART. 68. The President of the Republic shall retire on the day when his five-year term expires, and shall be succeeded by the newly elected President.

ART. 69. If the newly elected President is temporarily prevented from assuming office, the senior councilor of state shall take his place for the time being; but if the disability of the President-elect be permanent or likely to continue indefinitely or for a longer period than the presidential term, a new election shall be held in the constitutional manner, the office in the meantime being filled by the senior councilor of state who is not an ecclesiastic.

ART. 70. When, in the cases referred to by Arts. 65 and

69, an election of the President of the Republic is to be held at another time than that fixed by the constitution, after the order has been given for the election of electors, the same intervals of time and the same forms shall be observed in the choice of electors, in the election of President, and in the counting or verifying of the returns as are provided by Arts. 56 to 64 inclusive.

ART. 71. The President-elect upon assuming the duties of his office shall take the following oath before the two houses assembled in the Senate chamber, such oath to be administered by the president of the Senate:

I, ——— ———, swear by the Lord our God and by these Holy Gospels to discharge faithfully the duties of President of the Republic; to observe and protect the apostolic Roman Catholic religion; to preserve the integrity and independence of the Republic; and to observe and to cause others to observe the constitution and the laws. So help me God and be my defense; and if I do not so do, let it be required of me.

ART. 72. To the President of the Republic shall be confided the administration and government of the state; and his authority shall extend to everything which has for its object the preservation of internal public order and of the external security of the Republic, observing and causing others to observe the constitution and the laws.

ART. 73. The special powers of the President shall be:

1) To take part in the enactment of laws, in conformity with the provisions of the constitution; and to approve and promulgate them.

2) To issue such decrees, regulations, and instructions as he may think proper for the execution of the laws.

3) To watch over the official conduct of judges and other judicial officers; to this end he may require the public authorities to enforce disciplinary measures before the proper court, or, if there be sufficient grounds, to formulate the proper indictments.

4) To extend the regular sessions of Congress for a period of fifty days.

5) To convene Congress in extraordinary session, with the consent of the Council of State.

6) Freely to appoint and to remove ministers of state and departmental officers, councilors of state of his own appointment, diplomatic ministers, consuls, and other foreign agents, intendants of provinces, and governors of fortified places.

The appointment of diplomatic ministers shall be submitted to the approval of the Senate, or, during its recess, to the Executive Committee.

7) To appoint the judges of the superior courts of justice and of the courts of first instance, upon the proposal of the Council of State, in conformity with clause 2 of Art. 95.

8) To present persons for archbishoprics, bishoprics, canonries, and prebends of the cathedral churches, selecting one of three persons proposed by the Council of State. Persons named by the President as archbishops or bishops must also obtain the approval of the Senate.

9) To fill the other civil and military offices, acting with the consent of the Senate, or during its recess, with the consent of the Executive Committee, in appointing to the posts or ranks of colonel, captain of the navy, and other superior officers of the army and navy. On the field of battle he may confer such superior military offices alone.

10) To dismiss public officers for inefficiency, or for any other cause which may render their services harmful, but with the consent of the Senate, or during its recess, of the Executive Committee, if they are heads of offices or superior employees; in the case of subordinates such action shall be taken upon the information of the head of the proper office.

11) He may place officers on the retired list with pay, grant pensions, leaves of absence, and allowances to widows and orphans, in conformity with the laws.

12) To superintend the collection of public revenues, and to authorize their expenditure, in conformity with the laws.

13) To exercise the powers of patronage with respect to churches, benefices, and ecclesiastical persons, in conformity with the laws.

14) To issue or hold back the decrees of councils, papal bulls, briefs, and rescripts, with the consent of the Council of State; but such issuance or retention shall only be made by means of a law if the ecclesiastical enactments contain provisions of general application.

15) To grant pardons to individuals, with the consent of the Council of State. Ministers, councilors of state, members of the Executive Committee, generals in chief, or intendants of provinces, impeached by the House of Deputies and tried by the Senate, may not be pardoned except by Congress.

16) To dispose of the land and naval forces, to organize and distribute them, as he may think proper.

17) To command in person the land and naval forces, with the consent of the Senate, and during its recess, with the approval of the Executive Committee. In such a case the President of the Republic may reside in any part of the territory occupied by the Chilean armies.

18) To declare war with the previous approval of Congress, and to grant letters of marque and of reprisal.

19) To maintain political relations with foreign powers; to receive their ministers; admit their consuls; conduct negotiations; make preliminary stipulations; conclude and sign all treaties of peace, alliance, truce, neutrality, or commerce, concordats, and other conventions. Treaties, before ratification, shall be submitted to the approval of Congress. Discussions and deliberations upon these matters shall be secret if the President of the Republic so requests.

20) To declare a state of siege at one or more places in the Republic in case of foreign attack, with the consent of the Council of State and for a limited time.

In case of internal disturbance the declaration of a state of siege at one or more places shall belong to Congress, but if Congress is not in session, the President of the Republic, with the advice of the Council of State, may take such action, for a limited time. If when Congress meets the fixed time has not expired, the declaration of the President of the Republic shall be considered as a proposal of a law.

21) All matters of police and all of the public establishments shall be under the supreme inspection of the President of the Republic, in accordance with the particular ordinances which govern them.

ART. 74. The President of the Republic may be impeached only within the year immediately following the conclusion of his term of office, for all acts of his administration which may have gravely compromised the honor or the security of the State or have openly violated the constitution. The forms for the accusation of the President of the Republic shall be those provided by Arts. 84 to 91 inclusive.

THE MINISTERS OF STATE

ART. 75. The number of ministers and their respective departments shall be determined by law.

ART. 76. The qualifications of a minister shall be:

1) Birth within the territory of the Republic.

2) The qualifications of eligibility to the House of Deputies.

ART. 77. All orders of the President of the Republic shall be signed by the minister of the proper department; without such signature they shall not be obeyed.

ART. 78. Ministers shall be personally responsible for all acts which they sign, and collectively responsible for all acts subscribed to or agreed upon by them with the other ministers.

ART. 79. As soon as Congress convenes each of the

ministers of state shall report to it on the state of the nation with respect to the business of his own department.

ART. 80. The ministers shall also present to Congress the annual estimate of expenses to be met in their respective departments, and an account of the application of the sums voted to meet the expenses of the preceding year.

ART. 81. The office of minister of state is not incompatible with that of senator or deputy.

ART. 82. Ministers, even when not members of the Senate or of the House of Deputies, may attend their sessions and take part in their debates, but without the right to vote.

ART. 83. Ministers of state may be impeached by the House of Deputies for the offenses of treason, extortion, misappropriation of public funds, bribery, violation of the constitution, disregard of the laws through failure to execute them, or for having gravely compromised the security or the honor of the nation.

ART. 84. Upon the presentation of the accusation one of the days of the ensuing week shall be appointed for the accused minister to explain the charges brought against him, and for deliberation as to whether the charges shall be admitted to examination.

ART. 85. If the accusation is admitted to examination, a committee of nine members shall be chosen by lot from among the deputies present, who shall report within the five succeeding days whether or not there is sufficient ground for an impeachment.

ART. 86. After the presentation of the report of the committee, the House shall proceed to discuss it, hearing the members of the committee, the author or authors of the impeachment, the ministers or ministers, and other deputies who may wish to take part in the discussion.

ART. 87. After the discussion, if the House should resolve to make the impeachment, it shall name three of its members

to represent it in formulating and prosecuting the charges before the Senate.

ART. 88. As soon as the House resolves to present the impeachment to the Senate or decides that charges should be formulated, the impeached minister shall be suspended from the exercise of his functions.

Such suspension shall end if the Senate shall not have pronounced its judgment within the six months after the impeachment was decided upon by the House of Deputies.

ART. 89. The Senate, acting as a jury, shall try the minister and shall confine itself to a decision as to whether he is or is not guilty of the offense or abuse of power with which he is charged.

Two-thirds of the number of senators present at the session must concur in a verdict of guilt. By virtue of such a verdict the minister shall be deprived of his office.

The minister found guilty by the Senate shall be tried according to law by the ordinary courts of competent jurisdiction, both for the application of the penalty provided for the offense committed and in order to enforce his civil responsibility for damage or injury caused to the state or to individuals.

The provisions of this article and of Arts. 86, 87, and 88 shall also be observed with respect to other impeachments which the House of Deputies may make in conformity with the provisions of clause 2 of Art. 29 of this constitution.

ART. 90. Ministers may be accused by any person on account of injury which he may have suffered unjustly through any act of the ministry. Such a complaint shall be addressed to the Senate, and that body shall decide whether or not the charge is well founded.

ART. 91. Should the Senate declare the charge well founded, the petitioner may proceed against the minister before the court of justice of competent jurisdiction.

ART. 92. The House of Deputies may impeach a minister

while in office or within six months after his retirement. During these six months the minister may not absent himself from the Republic without the permission of Congress, or during its recess, of the Executive Committee.

THE COUNCIL OF STATE

ART. 93. There shall be a Council of State composed in the following manner:

Of three councilors chosen by the Senate and three by the House of Deputies in the first regular session after each renewal of Congress, the retiring councilors being eligible for re-election. In case of the death or disability of any councilor, the proper house shall appoint another to take his place until the next election.

Of one member of the superior courts of justice, residing in Santiago.

Of one ecclesiastic occupying a position above that of canon.

Of one general of the army or of the navy.

Of a chief of one of the offices of the treasury.

Of one person who has filled the office of minister of state, diplomatic agent, intendant, governor, or head of a municipality.

These last five councilors shall be appointed by the President of the Republic.

The Council shall be presided over by the President of the Republic, or in his absence, by one of its members chosen by itself as vice-president, who shall be elected annually and is eligible for re-election.

The vice-president of the Council shall be considered senior councilor for the purposes of Arts. 66 and 69 of this constitution.

Ministers of state shall only have a voice in the Council, and if any councilor is appointed a minister, he thereby vacates the office of councilor.

ART. 94. The qualifications for councilor of state shall be the same as those required of a senator.

ART. 95. The powers of the Council of State shall be:

1) To advise the President of the Republic in all cases in which he shall consult it.

2) In case of vacancies in the courts of first instance and in the superior courts of justice, to present to the President of the Republic the persons whom it thinks most fit for such positions, after first having received the suggestions of the superior court prescribed by, and in the manner provided by law.

3) To propose three persons for each appointment to archbishoprics, bishoprics, dignities, or prebends of the cathedral churches of the Republic.

4) To take cognizance of all matters of patronage or protection which may come into dispute, hearing the opinion of the superior court of justice as provided by law.

5) To have cognizance also of conflicts between administrative authorities, and of conflicts between administrative authorities and the courts of justice.

6) To decide whether or not there is cause to present criminal charges against intendants, commanders of fortresses, or governors of departments; except in the cases where an accusation against an intendant may orginate in the House of Deputies.

7) To give its advice concerning levies *en masse* in one or more provinces invaded or threatened, in case of foreign war.

8) The Council of State shall have the right to propose the dismissal of ministers of state, intendants, governors, or other public officers who may prove delinquent, incapable, or negligent.

ART. 96. The President of the Republic shall submit to the consideration of the Council of State:

1) All bills which he thinks it proper to submit to Congress.

2) All bills passed by the Senate and the House of Deputies and sent to the President of the Republic for his approval.

3) All matters regarding which the constitution specifically requires that the Council of State be heard.

4) The annual estimates of expenses which are to be submitted to Congress.

5) All other matters regarding which the President may think it proper to hear the opinion of the Council.

ART. 97. The opinion of the Council of State shall be simply advisory, except in the particular cases in which the constitution requires that the President of the Republic act upon the advice of the Council.

ART. 98. The councilors of state shall be responsible for the opinions rendered by them to the President of the Republic, which may be contrary to the laws and manifestly in bad faith; they may be impeached and tried in the manner provided by Arts. 84 to 89 inclusive.

CHAPTER VII. THE ADMINISTRATION OF JUSTICE

ART. 99. The power to try civil and criminal cases shall belong exclusively to the courts established by law. Neither Congress nor the President of the Republic shall in any case exercise judicial functions, remove pending cases to a superior court, or revive cases already decided.

ART. 100. Changes in the powers of courts or in the number of their members shall be made only by virtue of law.

ART. 101. The judges of the superior courts and of the courts of first instance shall hold office during good behavior. Judges of commercial courts, justices of the peace, and other inferior judges shall hold office for a term to be fixed by law. Judges shall not be deprived of their offices, whether they be held for a limited term or for life, except for a cause legally determined.

ART. 102. Judges shall be personally responsible for the offenses of bribery, failure to observe the laws regulating

procedure, and in general for any neglect or wrongful act in the administration of justice. The law shall determine the cases and manner in which this responsibility shall be enforced.

ART. 103. The law shall determine the qualifications required of the respective judges, and the number of years during which they must have practiced as lawyers before being appointed judges of superior or inferior courts.

ART. 104. There shall be a magistracy in the Republic charged with the directive, correctional, and economic supervision of all the courts of the nation, in accordance with the laws determining its organization and powers.

ART. 105. A special law shall determine the organization and powers of all courts which may be necessary for the prompt and complete administration of justice throughout the territory of the Republic.

CHAPTER VIII. INTERNAL GOVERNMENT AND ADMINISTRATION

ART. 106. The territory of the Republic shall be divided into provinces, the provinces into departments, the departments into subdelegations, and the subdelegations into districts.

THE INTENDANTS

ART. 107. The superior government of each province in all branches of its administration shall be vested in an intendant, who shall exercise his power in accordance with the laws, and with the orders and instructions of the President of the Republic, whose natural and immediate agent he is. His term of office shall be three years, but he may be reappointed indefinitely.

THE GOVERNORS

ART. 108. The government of each department shall be vested in a governor, subordinate to the intendant of the province. His term of office shall be three years.

ART. 109. The governors shall be appointed by the President of the Republic upon the nomination of the respective

intendants. They may be removed by the intendants, with the approval of the President of the Republic.

ART. 110. The intendant of the province shall also be governor of the department in the capital of which he resides.

THE SUBDELEGATES

ART. 111. The subdelegations shall each be governed by a subdelegate, subordinate to the governor of the department and appointed by him. The subdelegates shall continue in office for two years, but may be removed by the governor, who shall give an account to the intendant of his reasons for such action; the subdelegates may be reappointed indefinitely.

THE INSPECTORS

ART. 112. The district shall be governed by an inspector, under the direction of the subdelegate who appoints and removes him, stating his reasons therefor to the governor.

THE MUNICIPALITIES

ART. 113. There shall be a municipality in each capital of a department and in other centers of population in which the President of the Republic, after consulting the Council of State, may think proper to establish one.

ART. 114. The municipality shall be composed of the the number of magistrates and aldermen provided by law with reference to the population of the department or of the territory included within such municipality.

ART. 115. The election of aldermen shall be by direct popular vote, in the manner provided by the law of elections. Their term of office shall be three years.

ART. 116. The manner of electing magistrates and the length of their term shall be determined by law.

ART. 117. The qualifications required of magistrates and aldermen shall be:

1) The exercise of the rights of citizenship.

2) Residence of at least five years in the territory of the municipality.

ART. 118. The governor shall be the administrative head of all the municipalities in his department, and shall be president of the one established in his capital. The subdelegate shall be president of the municipality of his subdelegation.

ART. 119. Within their respective territories, the municipalities shall have power:

1) To care for the public health, comfort, decoration, and recreation.

2) To promote education, agriculture, industry, and commerce.

3) To supervise the primary schools and other educational institutions which are supported by municipal funds.

4) To superintend hospitals, asylums, foundlings' hospitals, jails, houses of correction, and other charitable institutions, in accordance with the regulations prescribed for such institutions.

5) To have charge of the construction and repair of roads, pavements, and bridges, and of all other necessary, useful, or ornamental public works which may be constructed with municipal funds.

6) To administer and expend the municipal funds, in accordance with the rules provided by law.

7) To make the assessments of taxes and to provide for the enrolment of recruits and substitutes apportioned to the territory of the municipality, in the cases where the law has not committed these duties to any other authority or persons.

8) To address to Congress each year, through the intendant and the President of the Republic, petitions which may be judged proper, relating either to matters affecting the general welfare of the State or to the particular affairs of the department, especially in the establishment of communal funds and the meeting of extraordinary expenses incurred for the construction of new public works of general interest to the department or for repairs of those in existence.

9) To propose to the general government, to the government of the province, or to that of the department, administrative measures conducive to the general welfare of such department.

10) To enact municipal ordinances concerning the aforesaid subjects, and to present them through the intendant to the President of the Republic for his approval, with the advice of the Council of State.

ART. 120. No decision or resolution of the municipality which is not in conformity with established rules shall be carried into effect without being brought to the attention of the governor, or of the subdelegate, as the case may be; and such officer may suspend its execution if it contains anything prejudicial to the public order.

ART. 121. All municipal employments shall be gratuitous, and may not be refused except for cause specified by law.

ART. 122. A special law shall regulate the internal government and shall designate the functions of all those charged with the provincial administration and the manner in which such functions shall be exercised.

CHAPTER IX. GUARANTIES OF SECURITY AND PROPERTY

ART. 123. In Chile there shall be no slaves, and he who sets foot upon Chilean territory shall become free. Chileans shall not engage in the slave trade; foreigners engaged in this trade shall not reside in Chile or be naturalized in the Republic.

ART. 124. No one shall be condemned without a trial in accordance with law and by virtue of a law promulgated before the commission of the act for which he is tried.

ART. 125. No one shall be tried by a special tribunal, nor by any other body than the court provided by law and established prior to the act for which he is tried.

ART. 126. In order that a warrant of arrest may be

executed, it must be issued by an authority having the right to make arrests and must be shown to the arrested person at the time of his apprehension.

ART. 127. Anyone taken in the commission of an offense may be arrested without a warrant and by any person, for the sole purpose of being taken before the proper judge.

ART. 128. No person shall be imprisoned or detained, except in his own house or in the public places provided for that purpose.

ART. 129. The persons in charge of prisons shall not receive prisoners into them, without entering in their register the order of arrest issued by an authority empowered to arrest. They may, however, receive into the prison, as under detention, persons brought there for the purpose of being taken before the proper judge, but they must notify such judge within twenty-four hours.

ART. 130. If the public authorities under any circumstances should arrest any inhabitant of the Republic, the officer who has ordered the arrest shall within the succeeding forty-eight hours notify the proper judge thereof, and place the arrested person at his disposal.

ART. 131. No prohibition of communication with a prisoner shall prevent his being visited by the magistrate having jurisdiction over the place of his confinement.

ART. 132. Such magistrate is required, upon the request of the prisoner, to transmit to the proper judge a copy of the warrant of arrest given to the prisoner, or to demand that the prisoner be given such a copy, or himself to give to the prisoner a certificate of arrest, if this requirement had not been complied with.

ART. 133. No person, not liable to corporal or infamous punishment, shall be imprisoned or detained if he will give sufficient bond or security, in the manner provided by law according to the nature of the case.

ART. 134. Any person illegally imprisoned or detained

in violation of the provisions of Arts. 126, 128, 129, and 130 may appeal personally or through someone acting in his name to the magistracy prescribed by law, demanding compliance with the legal forms. This magistracy shall order that the prisoner be brought before it, and its orders shall be exactly obeyed by all persons in charge of prisons or houses of detention. As soon as such magistracy has informed itself of the antecedent facts of the case, it shall cause the legal defects to be corrected, and shall place the accused at the disposal of the proper judge, proceeding promptly and summarily, correcting abuses itself or reporting them to those who should correct them.

ART. 135. In criminal cases accused persons shall not be compelled to testify against themselves, nor shall their children, grandchildren, husband, wife, or relatives within the third degree of consanguinity or within the second degree of affinity, be required to testify against them.

ART. 136. No torture shall be applied, nor shall the punishment of confiscation of goods be imposed in any case. No infamous penalty shall ever extend beyond the person of the condemned.

ART. 137. The house of every person residing in Chilean territory shall be an inviolable asylum, and may not be entered except for special cause determined by law, and by virtue of an order of the proper authority.

ART. 138. Epistolary correspondence shall be inviolable. No papers or effects shall be opened, intercepted, or searched, except in the cases expressly provided by law.

ART. 139. Congress alone shall have power to impose direct and indirect taxes, and all other public authorities and individuals are forbidden to impose them without its special authorization, under the pretext of loans, gifts, or in any other manner.

ART. 140. No personal service or tax of any kind shall be exacted, except by virtue of a decree of the proper authority,

based upon a law authorizing such exaction, such decree being shown to the individual when the burden is imposed upon him.

ART. 141. No armed body shall make requisitions or demand any kind of assistance except through the civil authorities and upon the order of such authorities.

ART. 142. No kind of labor or industry shall be prohibited unless opposed to good morals or to the public health or safety, or unless the interests of the nation require it and a law so provides.

ART. 143. Every author or inventor shall have the exclusive property in his discovery or production for the time to be determined by law; should the law require that the discovery be made public the inventor shall be given proper compensation.

CHAPTER X. GENERAL PROVISIONS

ART. 144. Public instruction shall be pre-eminently a governmental affair. Congress shall adopt a general plan of national education, and the proper minister of state shall annually report to it upon the state of education throughout the Republic.

ART. 145. There shall be an office of public instruction to which shall be committed the supervision of national education, and its administration, under the authority of the government.

ART. 146. No payment shall be admitted to the accounts of the treasury of the state unless it is made by virtue of an order which cites the law or the part of the estimates approved by Congress authorizing such expenditure.

ART. 147. All Chileans capable of bearing arms shall be enrolled in the registers of the militia, unless they are specially exempted by law.

ART. 148. The public force is by its nature obedient. No armed body shall deliberate.

ART. 149. Every decision of the President of the Repub-

lic, of the Senate, or of the House of Deputies shall be null and of no effect whatever if made in the presence of or upon the request of an army, of a general at the head of an armed force, or of any assembly of the people, who, whether armed or unarmed, are acting in disobedience of the authorities.

ART. 150. No person or assembly of persons shall assume the title or representation of the people, arrogate to himself or themselves the rights of the people, or petition in the name of the people. Violation of this article shall be sedition.

ART. 151. No magistrate, person, or assembly of persons shall assume, even under the pretext of extraordinary circumstances, any powers or rights other than those expressly conferred upon them by law. Any act in violation of this article shall be null and void.

ART. 152. When one or more places in the Republic are declared to be in a state of siege, in conformity with clause 20 of Art. 73, such declaration alone vests the following powers in the President of the Republic:

1) To detain persons in their own houses or elsewhere, but not in prisons or other places intended for the detention or imprisonment of common criminals.

2) To remove persons from one department of the Republic to another on the mainland, and within the area comprised between the port of Caldera on the north and the province of Llanquihue on the south.

Measures taken by the President of the Republic by virtue of a state of siege shall not continue longer than the state of siege itself, nor may they violate the constitutional guaranties granted to senators and deputies.

ART. 153. Entails of any kind, now established or which may hereafter be established, shall not restrain the free alienation of property affected by them, assuring to the beneficiaries of such entails the value of the property alienated. A special law shall prescribe the manner of carrying this provision into effect.

CHAPTER XI. THE OBSERVANCE AND AMENDMENT OF THE CONSTITUTION

ART. 154. Every public officer upon the assumption of his office shall take an oath to support this constitution.

ART. 155. Congress alone, conforming to the provisions of Art. 31 and following, shall settle any questions which may arise concerning the interpretation of any articles of the constitution.

ART. 156. An amendment to the constitution may be proposed in either house, in conformity with the provision of the first part of Art. 31.

No vote upon a proposal of amendment shall be taken in either house without the presence of a majority of all the members of such house.

In approving a proposal of amendment the houses shall adhere to the rules established by Arts. 32, 41, and 42.

ART. 157. If a proposal of amendment is approved by both houses, it shall be sent, in accordance with Art. 34, to the President of the Republic, who may only propose modifications or corrections of amendments agreed upon by Congress.

If the modifications proposed by the President of the Republic are approved in each house by a majority of two-thirds of the members present, in accordance with the provision of clause two of the preceding article, the proposition of amendment shall be returned to the President of the Republic in the form submitted by him, for promulgation.

If the houses approve only in part the modifications or corrections made by the President of the Republic, and do not insist by a majority of two-thirds upon the other amendments approved by Congress and modified by the President, the amendments upon which the President of the Republic and the houses are in agreement shall be considered approved, and the project of amendment shall be returned in this form for promulgation.

When the houses do not approve the modifications pro-

posed by the President of the Republic and insist, by a majority of two-thirds of those present in each house, upon the amendments previously approved by Congress, the proposal of amendment in its original form shall be returned to the President of the Republic for promulgation.

ART. 158. Amendments approved and published, as referred to in the two preceding articles, shall be submitted to the ratification of the Congress chosen or renewed immediately after the publication of the proposal of amendment.

The new Congress shall pass upon the ratification of amendments in the same terms in which they were proposed, and shall have no power to alter them.

The deliberation concerning the acceptance and ratification shall begin in the house in which the project of amendment originated, and each house shall pass upon the matter by a majority of all the members present, which shall not be less than a majority of all the members composing each house.

The project of amendment ratified by both houses shall be transmitted to the President of the Republic for promulgation.

Upon its promulgation its provisions shall form a part of this constitution and shall be incorporated therein.

The amendments which are to be submitted to the ratification of the succeeding Congress shall be published by the President of the Republic within the six months which precede the renewal of such Congress and at least three months before the date on which elections are to be held. In making such publication the President of the Republic shall announce to the country that the Congress about to be elected will have the power to accept and ratify the proposed amendments.

When the Congress having power to ratify the amendments permits its constitutional term to expire without having done so, the amendments shall be considered as if never proposed.

ART. 159. When Congress is convened in extraordinary session, either house may propose, discuss, and vote proposals

of amendments, as noted in Art. 156, even though they were not included in the summons of the President of the Republic.

The Congress having power to deliberate concerning the ratification of proposed amendments may, if both houses agree by a majority of all the votes at meetings which must also be attended by a majority of all the members composing the houses, continue its deliberations in extraordinary session for a period of ninety days, without the necessity of a summons by the President of the Republic, for the sole purpose of considering the question of ratification.

In any case the houses may deliberate concerning the ratification of proposed amendments in any extraordinary session which may have been convened by the President of the Republic, although this matter was not mentioned in the summons.

TEMPORARY ARTICLE

Substitutes of senators or deputies elected in accordance with present constitutional provisions shall continue in office until the first renewal of the House of Deputies.

If within this time any senator or deputy should die or lose his seat, he shall be replaced by the proper substitute.

If a substitute acting as senator or deputy should die or lose his seat, he shall be replaced in accordance with the amended constitutional provisions.

DENMARK

Until 1660 Denmark was governed by an elective ruler, and a representative legislature, in which sat nobles, clergy, and representatives of the towns. After 1536 the nobles constantly encroached upon the powers of the other estates and of the king, and for a time were the real rulers of the country. A union of king, clergy, and burgesses at the Rigsdag of 1660 deprived the nobles of their powers and special privileges, and the crown was made hereditary. The people, however, were not to reap the advantages of the victory which they had won; the king deprived them of all share in the government; the *Kongelov* of November 14, 1665, established an absolute monarchy, and remained in force until 1849.

Liberal principles began to spread in Denmark after 1830. Provincial assemblies were established in 1831, but were not organized until after the decrees of May 15, 1834, provided the regulations for each of the four provinces. In 1843 Iceland ceased to be a Danish province and was granted a separate legislature.

In the meantime a strong sentiment had developed in favor of a constitution. On January 28, 1848, a rescript was issued establishing a joint legislature for Denmark and the Duchies of Schlesvig and Holstein; this arrangement was unsatisfactory both to Denmark and to the duchies; the rescript was withdrawn, and a national assembly was convened, which adopted the constitution of June 5, 1849.

From 1848 to 1864 the constitutional development of Denmark was inextricably bound up with the Schlesvig-Holstein question. Holstein and Lauenburg were German in population and were members of the German Confederation; the inhabitants of southern Schlesvig were also German, but Schlesvig was not a member of the Confederation. These duchies had their independent institutions and were opposed to any closer union with Denmark. The German inhabitants of the duchies revolted in 1848, and were assisted by Prussia, but the duchies were saved

to Denmark by the victories of Danish armies and the interference of other powers. By the war of 1864 Austria and Prussia wrested the duchies from Denmark.

On October 2, 1855, a constitution was adoptèd, which was made applicable to the duchies without their consent; the German Confederation in 1858 refused to recognize this constitution as binding in the duchies. A new constitution was thus rendered necessary and was adopted on November 18, 1863. This constitution united Schlesvig with Denmark and brought about the war of 1864 with Austria and Prussia.

After the loss of the duchies, the country returned to the constitution of July 5, 1849, which was revised and adopted on July 28, 1866. The government has steadily refused to adopt the principles of the parliamentary system, and has usually chosen ministers who do not possess the confidence of the popular house of the legislature. The results of this policy have been constant disagreements between the government and the legislature, frequent dissolutions, and for much of the time a practical deadlock as to all important legislation. During recent years the relations of the government and the legislature have been more satisfactory, and the ministry has worked in greater harmony with the Folkething.

SELECT BIBLIOGRAPHY

MATZEN, H. *Den Danske Statsforfatningsret.* (3d ed., Kjöbenhavn, 1897–1901. Vols. I, II.) The leading treatise on Danish constitutional law.

GOOS, C. UND HANSEN, HENRIK. *Das Staatsrecht des Königreichs Dänemark.* (Freiburg, 1889. Handbuch des oeffentlichen Rechts.) The best brief study; it was also issued in Danish (Copenhagen, 1890).

NYHOLM, C. V. *Grundtraek af Danmarks Statsforvaltning.* (4th ed., Copenhagen, 1893.)

ASCHEHOUG, T. H. *Den Nordiske Statsret.* (Copenhagen, 1885. Nordisk Retsencyklopaedi, Vol. I.) A comparative study of Danish, Norwegian, and Swedish constitutional law.

BLOMBERG, H. *Den Nordiska Förvaltningsrätten.* (Copenhagen, 1887–89. Nordisk Retsencyklopaedi, Vol. V.) A comparative study of the administrative systems of Denmark, Norway, and Sweden.

HOLCK, CARL GEORG. *Den Danske Statsforfatningsret.* Udgivet ved C. Goos og J. Nellemann. (Copenhagen, 1869. 2 vols.) After Matzen, the best extensive commentary.

CONSTITUTION OF DENMARK[1]

(June 5, 1849; revised July 28, 1866)

I

ARTICLE 1. The form of government is that of a limited monarchy. The royal power is hereditary. The order of succession to the throne is that established by Arts. 1 and 2 of the law of July 30, 1853.

ART. 2. The legislative power is vested in the King and the Rigsdag acting together. The executive power is vested in the King. The judicial power is exercised by the courts.

ART. 3. The Evangelical Lutheran church is the national church of Denmark and as such it is supported by the state.

II

ART. 4. The King shall not be the ruler of any other country without the consent of the Rigsdag.

ART. 5. The King shall belong to the Evangelical Lutheran church.

ART. 6. The King shall be of age when he has completed his eighteenth year. The same rule applies to the princes of the royal house.

ART. 7. Before assuming office, the King shall make in writing before the Council of State an assurance under oath that he will maintain inviolable the constitution of the kingdom. Two identical originals of this act of assurance shall be prepared, one of which shall be delivered to the Rigsdag to be preserved in its archives, the other being deposited in the royal archives. If, immediately upon his succession to the throne,

[1] In the preparation of this text assistance has been received from the translations in *British and Foreign State Papers,* Vol. LVIII (1867–68), p. 1223, and in Weitemeyer's *Denmark* (London, 1891).

the King cannot take this oath, because of absence or for any other reason, the Council of State shall govern until it is done, unless the law provides otherwise. If the King has aready taken such oath as heir to the throne, he shall enter upon the government immediately after his succession to the throne.

ART. 8. Provisions shall be made by law with reference to the conduct of the government in case of the King's minority, illness, or absence. Until such a law is enacted the government shall be temporarily conducted by the Council of State in the aforesaid cases. The Council shall immediately summon the Rigsdag, which shall decide in joint session in what manner the government shall be carried on until the King can assume his functions. If when the throne becomes vacant there is no successor, the Rigsdag in joint session shall elect a King and establish the future order of succession.

ART. 9. The King's civil list shall be fixed by law for the term of his reign. Such law shall at the same time designate what palaces and other state property form a part of the civil list. The civil list shall not be pledged for debt.

ART. 10. Appanages may be assigned by law to the other members of the royal family, but they shall not be enjoyed beyond the kingdom without the consent of the Rigsdag.

III

ART. 11. The King, within the limitations prescribed by this constitution, shall have supreme authority over all of the affairs of the kingdom, and shall exercise it through his ministers.

ART. 12. The King is not responsible; his person is sacred and inviolable. The ministers are responsible for the conduct of the government; their responsibility shall be more particularly defined by law.

ART. 13. The King appoints and dismisses his ministers. He determines their number and the distribution of business among them. The King's signature gives validity to laws and to the resolutions relating to the government, if it is

accompanied by the signature of one or more ministers. Each minister is responsible for the resolutions which he signs.

ART. 14. Ministers may be called to account by the King or by the Folkething because of their conduct in office. The Court of Impeachment tries the accusations brought against ministers on account of their official acts.

ART. 15. The ministers together form the Council of State, in which the heir to the throne has a seat, if he is of age. The King acts as president, except in the cases mentioned in Arts. 7 and 8.

ART. 16. All laws and important matters of government shall be discussed in the Council of State. If, in a particular case, the King is prevented from holding a Council of State he may have the matters discussed in a council of ministers. This council shall consist of all of the ministers, under the presidency of one whom the King appoints president of the council. Each minister shall record his vote in the minutes and a decision shall be reached by a majority of votes. The president of the council shall lay before the King the minutes of the proceedings, signed by the members present, and the King decides whether he will immediately approve the recommendation of the council of ministers or consider the matter in the Council of State.

ART. 17. The King appoints to all offices in the same manner as heretofore. Alterations with respect to this matter may be made by law. No one shall be appointed to office who is not a citizen. Every civil and military officer shall take an oath to the constitution.

The King may dismiss the officers appointed by himself. Their pensions shall be fixed in accordance with the pension law.

The King may transfer public officers without their consent, provided that their official income is not diminished and that they have the choice between such transfer and retirement with a pension provided by general rules.

Exceptions for certain classes of officers besides those designated in Art. 73 shall be determined by law.

ART. 18. The King declares war and makes peace; he concludes and annuls treaties of alliance and of commerce; however, he shall not, without the consent of the Rigsdag, cede any territory or enter into any engagement which changes the existing international relations.

ART. 19. The King shall each year convene the Rigsdag in regular session. Without the King's consent it shall not remain in session longer than two months. This provision may be modified by law.

ART. 20. The King may convene the Rigsdag in extraordinary session, and decides how long such session shall continue.

ART. 21. The King may, without the consent of the Rigsdag, adjourn its regular sessions for a period not exceeding two months, but not more than once between two regular sessions.

ART. 22. The King may dissolve the whole Rigsdag or either of its houses; if only one house is dissolved, the meeting of the other house shall be postponed until the whole Rigsdag can be again assembled. Such reassembling shall take place within two months after the dissolution.

ART. 23. The King may submit to the Rigsdag projects of laws and of other measures.

ART. 24. The King's consent is necessary to give legal force to the resolutions of the Rigsdag. The King orders the publication of laws and sees that they are executed. If a law passed by the Rigsdag is not approved by the King before the next session of the Rigsdag, it shall be considered lost.

ART. 25. In cases of special urgency the King may, when the Rigsdag is not in session, issue laws of temporary application, which, however, shall not be contrary to the constitution, and which shall be submitted to the Rigsdag at its next session.

ART. 26. The King shall have the right to grant pardon and amnesty. He shall have no right, without the consent of the Folkething, to relieve ministers of the punishment imposed upon them by the Court of Impeachment.

ART. 27. The King grants, directly and indirectly through the proper governmental authorities, such licenses or exceptions from the laws as are customary in accordance with the rules in force before June 5, 1849, or for which authority is contained in laws passed since that date.

ART. 28. The King has the right to coin money in accordance with the law.

IV

ART. 29. The Rigsdag is composed of the Folkething and the Landsthing.

ART. 30. Every male citizen of good reputation who has reached the age of thirty years shall have the right to vote for members of the Folkething, unless he:

a) Is in the service of another and has no household establishment of his own.

b) Is receiving or has received assistance from public charity, which he has neither returned nor reimbursed.

c) Has not the control of his own property.

d) Has not resided for one year in the electoral district or city where he is staying at the time of the election.

ART. 31. Every male citizen of the age of twenty-five years is eligible to the Folkething, with the exceptions mentioned in *a*), *b*), and *c*) of Art. 30.

ART. 32. The number of members of the Folkething shall be about in the proportion of one member to 16,000 inhabitants. The elections shall take place in election districts; the apportionment and manner of election shall be determined by the election law. Each district elects one member from among those who offer themselves as candidates.

ART. 33. Members of the Folkething shall be elected for

three years. They shall receive a daily compensation the amount of which shall be fixed by the election law.

ART. 34. The Landsthing is composed of 66 members. Twelve members are appointed by the King, seven are elected in Copenhagen, forty-five are elected by the larger election districts comprising rural districts and towns, one by Bornholm, and one by the Lagthing of the Faroe Islands.

ART. 35. No one shall take part, directly or indirectly, in the election of members of the Landsthing unless he has the qualifications required of those entitled to vote for members of the Folkething; however, residence for the year preceding the election is only required either in one of the towns or in a country district of the particular Landsthing district.

ART. 36. In Copenhagen the voters choose one elector for each 120 voters, a fraction of 60 being counted as 120. An equal number of electors is chosen by the voters who, during the preceding year, had been assessed upon a taxable income of not less than 2,000 rix-dollars. These electors together choose the members of the Landsthing for Copenhagen.

ART. 37. In the country all of the voters choose one elector in each parochial district. For the towns, including therein Frederiksberg, Frederiksvaerk, Marstal, Silkeborg, Lögstör and Nörre-Lundby, there shall be chosen half as many electors as there are parochial districts; if the number of electors is uneven it shall be raised to an even number. One-half of the electors of each town shall be chosen by all qualified voters; the other half shall be chosen by the voters of the town who, within the preceding year, have been assessed upon a taxable income of not less than 1,000 rix-dollars or have paid not less than 75 rix-dollars in direct taxes to the state and commune. The apportionment of electors among the several towns in proportion to the number of their voters shall be made by the government for each general election of the Landsthing, in such manner that each town shall have one elector for each class of voters. From among the voters of

the country districts who have, during the preceding year, paid the highest state and provincial taxes, a number equal to the number of the parochial districts in the Landsthing district shall meet with the electors to choose members of the Landsthing.

ART. 38. Every person eligible to the Folkething is eligible to the Landsthing if he has resided in the election district during the preceding year.

ART. 39. The King's appointment of members of the Landsthing shall be made for life from among those who are or have been elected members of former or of the existing representative assemblies of the kingdom. However, every member shall be free to resign from his seat in the Landsthing, and he shall lose his seat if he ceases to be eligible.

The other members of the Landsthing are elected for eight years; however, one-half shall retire every four years.

Members of the Landsthing shall receive the same daily compensation as members of the Folkething.

ART. 40. The elections of members of the Landsthing shall take place according to the principles of proportional representation. The election law shall prescribe the details regarding such elections.

V

ART. 41. The Rigsdag shall meet in regular session on the first Monday in October unless the King summons it to meet before that date.

ART. 42. The Rigsdag shall meet at the seat of government. Under extraordinary circumstances the King may, however, summon it to meet in another place.

ART. 43. The Rigsdag is inviolable. Whoever assails its security and freedom, issues or obeys an order for such a purpose is guilty of treason.

ART. 44. Each house shall have the right to propose laws and to act upon them.

ART. 45. Each house may present addresses to the King.

ART. 46. Either house may appoint committees of its members to examine matters of general importance. Such committees shall have power to require verbal or written information from public authorities and from private citizens.

ART. 47. No tax shall be imposed, altered, or abolished except by law; nor shall troops be levied, public loans raised, or state property alienated, except by virtue of a law.

ART. 48. As soon as the Rigsdag convenes in regular session the project of the budgetary law for the next financial year shall be submitted to it, containing estimates of the receipts and expenditures of the state.

The project of the budgetary law and the supplementary appropriation laws shall be first considered in the Folkething.

ART. 49. No taxes shall be collected until after the budgetary law is passed. No expense shall be incurred which is not authorized by the budgetary law or by a supplementary appropriation law.

ART. 50. Each house shall appoint two salaried auditors. These auditors shall examine the yearly public accounts and take care that all of the revenues of the state are included therein, and that no expenditures have been made without the authority of the budgetary law. They may require that all necessary information and documents be submitted to them.

The yearly financial accounts, with the comments of the auditors, shall then be submitted to the Rigsdag for its approval.

These provisions may be altered by law.

ART. 51. No foreigner may be naturalized except by virtue of law.

ART. 52. No law shall be finally passed until after it has been three times considered by the houses.

ART. 53. If a bill is passed in one house it shall be submitted to the other house in the form in which it was passed; if it is there amended it shall be returned to the first house; if

the first house again amends it, it shall be again returned to the other house. If agreement is not then reached, and either house requests it, an equal number of members shall be appointed by each house to meet in committee; the committee shall give its opinion concerning the points of difference and report to the houses, each of which shall finally decide with reference to the report of the committee.

ART. 54. Each house shall decide for itself on the validity of the election of its members.

ART. 55. Each new member shall take the oath to the constitution as soon as the validity of his election has been recognized.

ART. 56. Members of the Rigsdag shall be bound by their own convictions alone and not by any instructions from their electors.

Public officers who are elected to the Rigsdag do not have to obtain the permission of the government to accept the election.

ART. 57. While the Rigsdag is in session no member shall, without the consent of the house to which he belongs, be imprisoned for debt, or arrested or prosecuted, unless he be taken in the commission of an offense. Without the consent of the house to which he belongs, no member shall be held responsible outside of the Rigsdag for statements made in that body.

ART. 58. Should a person properly elected become ineligible, he shall lose the rights resulting from such election.

A law shall determine specifically in what cases a member of the Rigsdag appointed to a salaried state office must submit to re-election.

ART. 59. Ministers by virtue of their office shall have access to the Rigsdag and shall be entitled to speak upon the matters under discussion, as often as they wish, provided that they otherwise observe the order of business. Ministers shall have no vote unless they are also members of the Rigsdag.

ART. 60. Each house shall elect its own president and the person or persons who shall preside during his absence.

ART. 61. Neither house shall pass any measure unless more than half of its members are present and take part in the voting.

ART. 62. Every member of the Rigsdag may, in the house to which he belongs and with its consent, submit any public matter for consideration and request explanations from the ministers concerning it.

ART. 63. No petition shall be submitted to either house except through one of its members.

ART. 64. If the house does not see fit to act upon a petition it may refer such petition to the ministers.

ART. 65. The sessions of the houses shall be public. However, the president or the number of members prescribed by the order of business may demand that all strangers be excluded, after which the house shall decide whether to consider the matter in public or in secret session.

ART. 66. Each house shall make its own regulations concerning its order of business and the maintenance of order.

ART. 67. The united Rigsdag is formed by the joint meeting of the Folkething and Landsthing. It shall not act unless at least one-half of the members of each house are present and take part in the voting. The united Rigsdag shall elect its own president and make regulations concerning its order of business.

VI

ART. 68. The Court of Impeachment (*Rigsret*) shall be composed of the regular members of the Supreme Court of the country, and of an equal number of members of the Landsthing, elected by that body as judges for a term of four years. If, in a special case, any of the members of the Supreme Court cannot take part in the trial and adjudication of a case, an equal number of the members chosen by the Landsthing (the

ones last elected or those having the least number of votes) shall abstain from sitting.

The Court shall choose its president from among its own members.

Should the Landsthing be dissolved after a case has been brought before the Court of Impeachment, the members of the dissolved Landsthing shall, nevertheless, retain their seats in the Court for the consideration of such case.

ART. 69. The Court of Impeachment shall try charges brought against ministers by the King or by the Folkething.

The King may, with the consent of the Folkething, cause other persons to be prosecuted before the Court of Impeachment for crimes which he considers especially dangerous to the state.

ART. 70. The exercise of the judicial power shall not be regulated except by law.

ART. 71. The judicial power shall be distinct from the executive power, in accordance with the rules to be established by law.

ART. 72. The courts shall have power to decide all questions regarding the extent of the powers of the public authorities. However, the person raising such a question cannot, by bringing it before the courts, avoid a preliminary compliance with the orders of the public authorities.

ART. 73. The judges shall exercise their functions strictly in compliance with law. They shall not be dismissed except after judicial sentence, nor transferred against their wishes unless in the case of a reorganization of the courts. However, a judge who has reached the age of sixty-five years may be retired without loss of income.

ART. 74. Publicity and oral procedure in the entire administration of justice shall be introduced as soon and as far as possible.

Trial shall be by jury for criminal cases and for political offenses.

VII

ART. 75. The organization of the national church shall be regulated by law.

ART. 76. Citizens shall have the right to organize themselves into societies for the worship of God according to their convictions, provided that their doctrines and conduct do not violate good morals or public order.

ART. 77. No one shall be bound to contribute personally toward the support of any other form of divine worship than his own, but everyone who does not prove that he is a member of a religious denomination recognized by the state shall pay into the educational funds the personal taxes authorized by law for the use of the national church.

ART. 78. The position of denominations dissenting from the national church shall be further regulated by law.

ART. 79. No one shall, on account of his religious belief, be deprived of admission to complete enjoyment of civil and political rights, or decline to perform any general civil obligation.

VIII

ART. 80. Every person who is arrested shall be brought before a judge within twenty-four hours. If the prisoner cannot be released immediately, the judge shall order his imprisonment by a decision which states the reasons therefor, and which shall be rendered as soon as possible, within three days at the latest; if he may be released on bail, the judge shall determine its character and amount.

The interested party may immediately appeal from this decision to the higher court.

No one shall be detained in confinement before trial for an offense which can be punished only by a fine or simple imprisonment.

ART. 81. The domicile is inviolable. The search of a house, the seizure and examination of letters and other papers

shall take place only by virtue of a legal warrant, unless a special exception be authorized by law.

ART. 82. The right of property is inviolable. No one shall be deprived of his property except for a public purpose. Such deprivation shall take place only in accordance with law and in consideration of adequate compensation.

ART. 83. All restrictions upon the free and equal opportunity to engage in any industry shall be abolished by law, unless they are established for the public welfare.

ART. 84. Everyone who is not able to support himself or those dependent upon him and whose support is not incumbent upon some other person, shall be entitled to receive aid from the public, but he must submit to the obligations imposed by law.

ART. 85. Children whose parents are unable to provide for their education shall receive free instruction in the public schools.

ART. 86. Everyone shall have the right to publish his opinions through the press, but under responsibility for them before the courts. Censorship and other preventive measures shall never be re-established.

ART. 87. The citizens shall have the right, without previous authorization, to form associations for any lawful purpose. No association shall be dissolved by an order of the government. However, associations may be forbidden temporarily, but in such cases an action shall immediately be brought for the dissolution of such associations.

ART. 88. The citizens shall have the right to assemble without arms. The police shall have the right to attend public meetings. Meetings in the open air may be prohibited, if there is reason to fear a breach of the public peace by them.

ART. 89. In case of riot, the armed force, unless it is attacked, shall not interfere until the crowd has been three times summoned, in the name of the King and of the law, to disperse and has not done so.

ART. 90. Every man capable of bearing arms is bound personally to assist in the defense of the country, in accordance with the special regulations provided by law.

ART. 91. The right of the communes to manage their local affairs, under the supervision of the state, shall be regulated by law.

ART. 92. All privileges granted by law in connection with nobility, title, or rank are abolished.

ART. 93. No feudal tenures, entails, or trusts in real property shall hereafter be created; a law shall determine how property now so burdened may be made freely transferable.

ART. 94. The provisions of Arts. 80, 87, and 88 are applicable to the military forces only within the restrictions established by the military laws.

IX

ART. 95. Proposals regarding the alteration of or additions to the present constitution may be made either in a regular or in an extraordinary session of the Rigsdag.

Should a proposal for a new constitutional provision be adopted by the two houses and should the government wish to forward the matter, the Rigsdag shall be dissolved and a general election held both for the Folkething and for the Landsthing. If the newly elected Rigsdag, in regular or extraordinary session, adopts the proposed amendment without change and the King approves it, it shall become a part of the constitution.

TEMPORARY PROVISIONS

1. The present members of the Landsthing, appointed by the King, shall retain their seats in the Landsthing of the Rigsdag for the term of twelve years from the dates of their respective appointments. The validity of their appointment is not affected by the dissolution of the Landsthing.

2. With respect to the procedure in the Court of Impeach-

ment, until a new law is issued the law of March 3, 1852, shall remain in force, with the modifications required by the altered composition of the Court and by the provision of the last part of Art. 68.

3. The provisions of Art. 73 that judges shall not be dismissed except after judicial sentence, nor be transferred against their wishes, shall not apply to the present judges who also exercise administrative functions.

4. Until a reorganization of criminal procedure has been effected, the appeal from a sentence of imprisonment referred to in Art. 80 shall take place as in civil cases, but with additional notice; the appellant shall also be exempt from the use of stamped paper and from the payment of judicial fees. On the occasion of such an appeal the appellant shall be allowed access to counsel, and additional evidence may be laid before the superior court.[2]

[2] Art. 5 of the temporary provisions related to the application of the election law of December 4, 1863; this law has been superseded by the election law of July 12, 1867.

FRANCE[1]

Since 1789 France has undergone numerous changes in government, and each change has been embodied in constitutional documents. It will suffice here to enumerate the several constitutions which were in force before the definite establishment of the Third Republic:

1) The constitution of September 3, 1791, established a limited monarchy, but disappeared with the fall of the king in the succeeding year.

2) The republican constitution of June 24, 1793, had not been put in force before the fall of the Jacobins who framed it, and was disregarded by those who succeeded to their power.

3) The constitution of August 22, 1795, vested the executive power in five Directors, and the legislative power in a Council of Five Hundred and a Council of Ancients. It represents the conservative reaction from the Jacobin principles of 1793.

4) The usurpations of the Directory and the *coup d'état* of November 9, 1799, put an end to the constitution of 1795. Under the constitution of December 13, 1799, Napoleon gained as First Consul the supreme executive power to which he aspired.

5) The *senatus-consulta* of August 2 and 4, 1802, proclaimed Napoleon First Consul for life with extended powers, and on May 18, 1804, the Consulate was replaced by the Empire. The constitution was altered by several other less important acts between 1804 and 1814. Intimately connected with the first imperial constitution is the Additional Act of April 22, 1815, which by its liberal principles attempted to outbid the Bourbon charter of 1814; the Additional Act disappeared with the defeat of Napoleon at Waterloo.

6) Upon the restoration of the Bourbons the constitutional charter of June 4, 1814, was issued by Louis XVIII; with this constitution was first established the parliamentary system with

[1] In the preparation of the English texts of French constitutional and organic laws use has been made of the translation of Professor Charles F. A. Currier, issued as a supplement to the *Annals of the American Academy of Political and Social Science* of March, 1893.

ministerial responsibility; the legislature was composed of two houses, one appointive, the other elective, but with a very limited electorate.

7) The constitution of August 14, 1830, and the organic laws of 1831 came as a result of the July revolution of 1830. The constitution of 1814 remained almost unchanged, except for a limited extension of the suffrage and the abolition of hereditary peerages.

8) The republican constitution of November 4, 1848, introduced universal suffrage, with an unicameral legislature, and an elective president chosen for four years and ineligible to succeed himself.

9) The constitution of January 14, 1852, extended for ten years the power of Louis-Napoleon Bonaparte as president of the Republic; the *senatus-consultum* of November 7, ratified by the plebiscite of November 21 and 22, 1852, re-established the Empire. Between 1852 and 1870 the constitution was altered by numerous *senatus-consulta,* the most important of which was that of September 8, 1869, establishing ministerial responsibility.

10) The *senatus-consultum* of May 21, 1870, a codification of constitutional changes since 1860, was really a new imperial constitution, and was submitted to a vote of the people as such.

11) Imperial institutions in France were now destined to be of short duration; the Empire disappeared on September 4, 1870, when news reached Paris of the French disaster at Sedan. The Government of the National Defense, which succeeded the Empire, gave way in February, 1871, to a National Assembly which chose Thiers chief of the executive power of the French Republic.

For two years after 1871 nothing was done by the National Assembly toward the permanent establishment of the Republic. In fact the majority of the Assembly were monarchists; the overthrow of Thiers and the election of Marshal MacMahon as president were considered the first steps toward the restoration of monarchy, but the attitude of the Comte de Chambord wrecked the hopes of his supporters. Definite steps toward a constitutional organization were not taken until hope of a restoration of the Bourbons had disappeared.

Even after the failure to re-establish the monarchy the majority of the National Assembly hoped to prevent the permanent establishment of the Republic. But the provisional organization of the government could not continue forever, nor could the Assembly, elected to meet the national crisis of 1871, expect much longer to remain in power. The constitutional laws were finally enacted in 1875, and the elections of 1876 proved that the people of France were ready to support republican institutions.

SELECT BIBLIOGRAPHY

PIERRE, EUGÈNE. *Organisation des pouvoirs publics.* Recueil des lois constitutionnelles et organiques de la république française. (Paris, 1902.) The best collection of laws bearing on the present organization of the French government.

DUGUIT, LÉON ET MONNIER, HENRY. *Les constitutions et les principales lois politiques de la France depuis 1789.* (2d ed., Paris, 1908.) A convenient collection of documents, with a good historical introduction.

HÉLIE, FAUSTIN-ADOLPHE. *Les constitutions de la France.* (Paris, 1880.) Contains texts of the French constitutions, with complementary laws and historical commentary; invaluable for the study of French constitutional history.

ANDERSON, FRANK MALOY. *The Constitutions and Other Select Documents Illustrative of the History of France: 1789–1901.* (Minneapolis, 1904.) An excellent collection of constitutional texts in English translation.

BODLEY, JOHN EDWARD COURTENAY. *France.* (New York, 1898. 2 vols.) An excellent account of the structure and operation of the French government.

ESMEIN, A. *Éléments de droit constitutionnel français et comparé.* (4th ed., Paris, 1906.) A standard work.

DUGUIT, LÉON. *Droit constitutionnel.* (Paris, 1907.) An excellent work which will easily bear comparison with that of Esmein.

COUBERTIN, PIERRE DE. *The Evolution of France under the Third Republic.* Translated from the French. (New York [1897].)

PIERRE, EUGÈNE. *Traité de droit politique, électoral et parlementaire.* (2d ed., Paris, 1902. Supplément, Paris, 1906.) A valuable work; it has not entirely superseded POUDRA, JULES ET PIERRE, EUGÈNE,

Traité pratique de droit parlementaire. (4e tirage, Paris [1885].) Supplément de 1879–80. (Paris [1880].)

BERTHÉLEMY, H. *Traité élémentaire de droit administratif.* (4th ed., Paris, 1906.) One of the best one-volume treatises.

HAURIOU, MAURICE. *Précis de droit administratif et de droit public général.* (6th ed., Paris, 1906.)

DUCROCQ, TH. *Cours de droit administratif et de législation française des finances.* (7th ed., Paris, 1897–1905. 7 vols.) The standard comprehensive work on French administrative law.

LAFERRIÈRE, E. *Traité de la jurisdiction administrative et des recours contentieux.* (2d ed., Paris, 1896. 2 vols.)

CONSTITUTIONAL LAW ON THE ORGANIZATION OF THE PUBLIC POWERS

(February 25, 1875)

ARTICLE 1. The legislative power shall be exercised by two assemblies: the Chamber of Deputies and the Senate.

The Chamber of Deputies shall be elected by universal suffrage, under the conditions determined by the electoral law.[2]

The composition, the method of election, and the powers of the Senate shall be regulated by a special law.[3]

ART. 2. The President of the Republic shall be chosen by an absolute majority of votes of the Senate and Chamber of Deputies united in National Assembly.

He shall be elected for seven years. He is re-eligible.

ART. 3. The President of the Republic shall have the initiative of laws, concurrently with the members of the two chambers. He shall promulgate the laws when they have been voted by the two chambers; he shall look after and secure their execution.

[2] See laws of November 30, 1875; June 16, 1885, and February 13, 1889, pp. 302, 316, 318.

[3] See constitutional law of February 24, 1875, and laws of August 2, 1875, and December 9, 1884, pp. 288, 295, 310.

He shall have the right of pardon; amnesty may only be granted by law.

He shall dispose of the armed force.

He shall appoint to all civil and military positions.

He shall preside over state functions; envoys and ambassadors of foreign powers shall be accredited to him.

Every act of the President of the Republic shall be countersigned by a minister.

ART. 4. As vacancies occur on and after the promulgation of the present law, the President of the Republic shall appoint, in the Council of Ministers, the councilors of state in regular service.

The councilors of state thus chosen may be dismissed only by decree rendered in the Council of Ministers.

The councilors of state chosen by virtue of the law of May 24, 1872, shall not, before the expiration of their powers, be dismissed except in the manner provided by that law. After the dissolution of the National Assembly, they may be dismissed only by resolution of the Senate.[4]

ART. 5. The President of the Republic may, with the advice of the Senate, dissolve the Chamber of Deputies before the legal expiration of its term.

In that case the electoral colleges shall be summoned for new elections within the space of two months, and the Chamber within the ten days following the close of the elections.[5]

ART. 6. The ministers shall be collectively responsible to the chambers for the general policy of the government, and individually for their personal acts.

The President of the Republic shall be responsible only in case of high treason.[6]

ART. 7. In case of vacancy by death or for any other

[4] By the law of May 24, 1872, councilors of state were elected by the National Assembly for a term of nine years. This clause therefore ceased to have any application after 1881.

[5] As amended by Art. 1 of the constitutional law of August 14, 1884. See p. 294.

[6] See Art. 12 of the constitutional law of July 16, 1875, p. 293.

reason, the two chambers assembled together shall proceed at once to the election of a new President.

In the meantime the Council of Ministers shall be vested with the executive power.[7]

ART. 8. The chambers shall have the right by separate resolutions, taken in each by an absolute majority of votes, either upon their own initiative or upon the request of the President of the Republic, to declare a revision of the constitutional laws necessary.

After each of the two chambers shall have come to this decision, they shall meet together in National Assembly to proceed with the revision.

The acts effecting revision of the constitutional laws, in whole or in part, shall be passed by an absolute majority of the members composing the National Assembly.

During the continuance, however, of the powers conferred by the law of November 20, 1873, upon Marshal de MacMahon, this revision shall take place only upon the initiative of the President of the Republic. [The republican form of government shall not be made the subject of a proposed revision. Members of families that have reigned in France are ineligible to the presidency of the Republic.[8]]

ART. 9. The seat of the executive power and of the two chambers is at Versailles.[9]

CONSTITUTIONAL LAW ON THE ORGANIZATION OF THE SENATE[1]

(February 24, 1875)

ARTICLE 1. The Senate shall consist of three hundred members: two hundred and twenty-five elected by the depart-

[7] See Art. 3 of the constitutional law of July 16, 1875, p. 291.

[8] As amended by Art. 2 of the constitutional law of August 14, 1884.

[9] Repealed by constitutional law of June 21, 1879. See law of July 22, 1879, p. 309.

[1] Arts. 1 to 7 of this law were deprived of their constitutional character by the constitutional law of August 14, 1884, and were repealed by law of December 9, 1884. See pp. 294, 310.

ments and colonies, and seventy-five elected by the National Assembly.

ART. 2. The departments of the Seine and of the Nord shall each elect five senators.

The following departments shall elect four senators each: Seine-Inférieure, Pas-de-Calais, Gironde, Rhône, Finistère, Côtes-du-Nord.

The following departments shall elect three senators each: Loire-Inférieure, Saône-et-Loire, Ille-et-Vilaine, Seine-et-Oise, Isère, Puy-de-Dome, Somme, Bouches-du-Rhône, Aisne, Loire, Manche, Maine-et-Loire, Morbihan, Dordogne, Haute-Garonne, Charente-Inférieure, Calvados, Sarthe, Hérault, Basses-Pyrénées, Gard, Aveyron, Vendée, Orne, Oise, Vosges, Allier.

All the other departments shall elect two senators each.

The following shall elect one senator each: the territory of Belfort, the three departments of Algeria, the four colonies of Martinique, Guadeloupe, Réunion, and the French Indies.

ART. 3. No one shall be a senator unless he is a French citizen at least forty years of age, and in the enjoyment of civil and political rights.

ART. 4. The senators of the departments and of the colonies shall be elected by an absolute majority and by *scrutin de liste,* by a college meeting at the capital of the department or colony and composed:

1) of the deputies;

2) of the general councilors;

3) of the arrondissement councilors;

4) of delegates elected, one by each municipal council, from among the voters of the commune.

In the French Indies the members of the colonial council or of the local councils are substituted for the general councilors, arrondissement councilors, and delegates from the municipal councils.

They shall vote at the seat of government of each district.

ART. 5. The senators chosen by the Assembly shall be elected by *scrutin de liste* and by an absolute majority of votes.

ART. 6. The senators of the departments and of the colonies shall be elected for nine years and renewable by thirds every three years.

At the beginning of the first session the departments shall be divided into three series containing each an equal number of senators. It shall be determined by lot which series shall be renewed at the expiration of the first and second triennial periods.

ART. 7. The senators elected by the Assembly are irremovable.

Vacancies by death, by resignation, or for any other cause, shall, within the space of two months, be filled by the Senate itself.

ART. 8. The Senate shall have, concurrently with the Chamber of Deputies, the power to initiate and to pass laws. Money bills, however, shall first be introduced in and passed by the Chamber of Deputies.

ART. 9. The Senate may be constituted a Court of Justice to try either the President of the Republic or the ministers, and to take cognizance of attacks made upon the safety of the state.

ART. 10. Elections to the Senate shall take place one month before the time fixed by the National Assembly for its own dissolution. The Senate shall organize and enter upon its duties the same day that the National Assembly is dissolved.

ART. 11. The present law shall be promulgated only after the passage of the law on the public powers.

CONSTITUTIONAL LAW ON THE RELATIONS OF THE PUBLIC POWERS

(July 16, 1875)

ARTICLE 1. The Senate and the Chamber of Deputies shall assemble each year on the second Tuesday of January, unless convened earlier by the President of the Republic.

The two chambers shall continue in session at least five months each year. The sessions of the two chambers shall begin and end at the same time.

On the Sunday following the opening of the session, public prayers shall be addressed to God in the churches and temples, to invoke his aid in the labors of the chambers.[1]

ART. 2. The President of the Republic pronounces the closing of the session. He may convene the chambers in extraordinary session. He shall convene them if, during the recess, an absolute majority of the members of each chamber request it.

The President may adjourn the chambers. The adjournment, however, shall not exceed one month, nor take place more than twice in the same session.

ART. 3. One month at least before the legal expiration of the powers of the President of the Republic, the chambers shall be called together in National Assembly to proceed to the election of a new President.

In default of a summons, this meeting shall take place, as of right, the fifteenth day before the expiration of the term of the President.

In case of the death or resignation of the President of the Republic, the two chambers shall assemble immediately, as of right.

In case the Chamber of Deputies, in consequence of Art. 5 of the law of February 25, 1875, is dissolved at the time when the presidency of the Republic becomes vacant, the electoral colleges shall be convened at once, and the Senate shall assemble as of right.

ART. 4. Every meeting of either of the two chambers which shall be held at a time when the other is not in session is illegal and void, except in the case provided for in the preceding article, and that when the Senate meets as a court of

[1] This clause was repealed by the constitutional law of August 14, 1884.

justice; in the latter case, judicial duties alone shall be performed.

ART. 5. The sittings of the Senate and of the Chamber of Deputies shall be public.

Nevertheless either chamber may meet in secret session, upon the request of a fixed number of its members, determined by the rules.

It shall then decide by absolute majority whether the sitting shall be resumed in public upon the same subject.

ART. 6. The President of the Republic communicates with the chambers by messages, which shall be read from the tribune by a minister.

The ministers shall have entrance to both chambers, and shall be heard when they request it. They may be assisted, for the discussion of a specific bill, by commissioners named by decree of the President of the Republic.

ART. 7. The President of the Republic shall promulgate the laws within the month following the transmission to the government of the law finally passed. He shall promulgate, within three days, laws the promulgation of which shall have been declared urgent by an express vote of each chamber.

Within the time fixed for promulgation the President of the Republic may, by a message with reasons assigned, request of the two chambers a new discussion, which cannot be refused.

ART. 8. The President of the Republic shall negotiate and ratify treaties. He shall give information regarding them to the chambers as soon as the interests and safety of the state permit.

Treaties of peace and of commerce, treaties which involve the finances of the state, those relating to the person and property of French citizens in foreign countries, shall be ratified only after having been voted by the two chambers.

No cession, exchange, or annexation of territory shall take place except by virtue of a law.

ART. 9. The President of the Republic shall not declare war without the previous consent of the two chambers.

ART. 10. Each chamber shall be the judge of the eligibility of its members, and of the regularity of their election; it alone may receive their resignation.

ART. 11. The bureau[2] of each chamber shall be elected each year for the entire session, and for every extraordinary session which may be held before the regular session of the following year.

When the two chambers meet together as a National Assembly, their bureau shall be composed of the president, vice-presidents, and secretaries of the Senate.

ART. 12. The President of the Republic may be impeached by the Chamber of Deputies only, and may be tried only by the Senate.

The ministers may be impeached by the Chamber of Deputies for offenses committed in the performance of their duties. In this case they shall be tried by the Senate.

The Senate may be constituted into a court of justice, by a decree of the President of the Republic, issued in the Council of Ministers, to try all persons accused of attempts upon the safety of the state.

If proceedings should have been begun in the regular courts, the decree convening the Senate may be issued at any time before the granting of a discharge.

A law shall determine the method of procedure for the accusation, trial, and judgment.

ART. 13. No member of either chamber shall be prosecuted or held responsible on account of any opinions expressed or votes cast by him in the performance of his duties.

ART. 14. No member of either chamber shall, during the session, be prosecuted or arrested for any offense or mis-

[2] The bureau of the Senate consists of a president, four vice-presidents, eight secretaries, and three questors; the bureau of the Chamber of Deputies has the same composition.

demeanor, except upon the authority of the chamber of which he is a member, unless he be taken in the very act.

The detention or prosecution of a member of either chamber shall be suspended for the session, and for the entire term of the chamber, if the chamber requires it.

CONSTITUTIONAL LAW REVISING ART. 9 OF THE CONSTITUTIONAL LAW OF FEBRUARY 25, 1875

(June 19, 1879)

Art. 9 of the constitutional law of February 25, 1875, is repealed.[1]

CONSTITUTIONAL LAW PARTIALLY REVISING THE CONSTITUTIONAL LAWS[1]

(August 13, 1884)

ARTICLE 1. Paragraph 2 of Art. 5 of the constitutional law of February 25, 1875, on the Organization of the Public Powers, is amended as follows:

"In that case the electoral colleges shall meet for new elections within two months and the Chamber within the ten days following the close of the elections."

ART. 2. To paragraph 3 of Art. 8 of the same law of February 25, 1875, is added the following:

"The republican form of government shall not be made the subject of a proposed revision.

"Members of families that have reigned in France are ineligible to the presidency of the Republic."

ART. 3. Arts. 1 to 7 of the constitutional law of February 24, 1875, on the Organization of the Senate, shall no longer have a constitutional character.[2]

[1] This article fixed the seat of government at Versailles. The seat of government was removed from Versailles to Paris by a law of July 22, 1879; see p. 309.

[1] The amendments to the constitutional laws have also been inserted in their proper places.

[2] These articles were repealed by way of ordinary legislation, on December 9, 1884; see p. 310.

ART. 4. Paragraph 3 of Art. 1 of the constitutional law of July 16, 1875, on the Relation of the Public Powers, is repealed.

ORGANIC LAW ON THE ELECTION OF SENATORS

(August 2, 1875)

ARTICLE 1. A decree of the President of the Republic, issued at least six weeks in advance, shall fix the day for the elections to the Senate, and at the same time that for the choice of delegates of the municipal councils. There shall be an interval of at least one month between the choice of delegates and the election of senators.

ART. 2. Each municipal council shall elect one delegate. The election shall be without debate, by secret ballot, and by an absolute majority of votes. After two ballots a plurality shall be sufficient, and in case of an equality of votes, the oldest is elected. If the mayor is not a member of the municipal council, he shall preside, but shall not vote.

On the same day and in the same manner an alternate shall be elected, who shall take the place of the delegate in case of refusal or inability to serve.[1]

The choice of the municipal councils shall not extend to a deputy, a general councilor, or an arrondissement councilor.

All communal electors, including the municipal councilors, shall be eligible without distinction.

ART. 3. In the communes where a municipal committee exists, the delegate and alternate shall be chosen by the former council.[1]

ART. 4. If the delegate were not present at the election, the mayor shall see to it that he is notified within twenty-four hours. He shall transmit to the prefect, within five days, notice of his acceptance. In case of refusal or silence, he shall

[1] Amended by Art. 8 of law of December 9, 1884; see p. 313. The amendments of Arts. 4 and 5 merely substitute "delegates" and "alternates" for "delegate" and "alternate."

be replaced by the alternate, who shall then be placed upon the list as the delegate of the commune.[1]

ART. 5. The official report of the election of the delegate and alternate shall be transmitted at once to the prefect; it shall state the acceptance or refusal of the delegates and alternates, as well as the protests raised, by one or more members of the municipal council, against the legality of the election. A copy of this official report shall be posted on the door of the town hall.[1]

ART. 6. A statement of the results of the election of delegates and alternates shall be drawn up within a week by the prefect; this statement shall be given to all requesting it, and may be copied and published.

Every elector may, at the bureaux of the prefecture, obtain information and a copy of the list, by communes, of the municipal councilors of the department, and, at the bureaux of the subprefectures, a copy of the list, by communes, of the municipal councilors of the arrondissement.

ART. 7. Every communal elector may, within the next three days, address directly to the prefect a protest against the legality of the election.

If the prefect deems the proceedings illegal, he may request that they be set aside.

ART. 8. Protests concerning the election of the delegate or alternate shall be decided, subject to an appeal to the Council of State, by the council of the prefecture, and, in the colonies, by the privy council.

A delegate whose election is annulled because he does not fulfil the conditions demanded by law, or on account of informality, shall be replaced by the alternate.

In case the election of the delegate and alternate is annulled or in the case of the refusal or death of both of them after

[1] Amended by Art. 8 of law of December 9, 1884; see p. 313. The amendments of Arts. 4 and 5 merely substitute "delegates" and "alternates" for "delegate" and "alternate."

their acceptance, new elections shall be held by the municipal council on a day fixed by an order of the prefect.[2]

ART. 9. One week, at the latest, before the election of senators, the prefect, and, in the colonies, the director of the interior, shall arrange the list of the electors of the department in alphabetical order. The list shall be communicated to all who request it, and may be copied and published. No elector shall have more than one vote.

ART. 10. The deputies, the members of the general council, or of the arrondissement councils, whose elections have been announced by the returning committees, but whose powers have not been verified, shall be enrolled upon the list of electors and shall be allowed to vote.

ART. 11. In each of the three departments of Algeria the electoral college shall be composed:

1) of the deputies;

2) of the members of the general councils, of French citizenship;

3) of delegates elected by the French members of each municipal council from among the communal electors of French citizenship.

ART. 12. The electoral college shall be presided over by the president of the civil tribunal of the seat of government of the department or colony. [In the department of Ardennes it shall be presided over by the president of the tribunal of Charleville.[3]] The president shall be assisted by the two oldest and the two youngest electors present at the opening of the meeting. The bureau thus constituted shall choose a secretary from among the electors.

If the president is prevented from presiding his place shall be taken by the vice-president of the civil tribunal, and, in his absence, by the oldest judge.

[2] Amended by Art. 8, law of December 9, 1884; see p. 313. The amendment to this article merely substitutes "delegates" and "alternates" for "delegate" and "alternate."

[3] This clause was inserted by law of February 1, 1898.

ART. 13. The bureau shall divide the electors in alphabetical order into sections of at least one hundred voters each. It shall appoint the president and inspectors of each of these sections. It shall decide all questions and contests which may arise in the course of the election, without power, however, to depart from the decisions rendered by virtue of Art. 8 of the present law.

ART. 14. The first ballot shall begin at eight o'clock in the morning and close at noon. The second shall begin at two o'clock and close at four o'clock. The third, if it takes place, shall begin at six o'clock and close at eight o'clock. The results of the ballotings shall be canvassed by the bureau and announced on the same day by the president of the electoral college.[4]

ART. 15. No one shall be elected senator on either of the first two ballots unless he receives: (1) an absolute majority of the votes cast; and (2) a number of votes equal to one-fourth of the total number of electors registered. On the third ballot a plurality shall be sufficient, and, in case of an equality of votes, the oldest is elected.

ART. 16. Political meetings for the nomination of senators may take place conformably to the rules laid down by the law of June 6, 1868,[5] subject to the following conditions:

1) These meetings may be held from the date of the election of delegates up to the day of the election of senators inclusive;

2) They shall be preceded by a declaration made, at the latest, the evening before, by seven senatorial electors of the arrondissement, indicating the place, the day, and the hour of the meeting and the names, occupation, and residence of the candidates to be presented;

3) The municipal authorities shall see to it that no one is

[4] Amended by Art. 8, law of December 9, 1884; see p. 315.

[5] The law of June 6, 1868, was superseded by a law of June 30, 1881.

admitted to the meeting unless he is a deputy, general councilor, arrondissement councilor, delegate, or candidate.

The delegate shall present, as a means of identification, a certificate from the mayor of his commune, the candidate a certificate from the official who shall have received the declaration mentioned in the preceding paragraph.[6]

ART. 17. Delegates who take part in all the ballotings shall, if they demand it, receive from the state, upon the presentation of their letter of summons, countersigned by the president of the electoral college, a remuneration for traveling expenses, which shall be paid to them upon the same basis and in the same manner as that given to jurors by Arts. 35, 90, and following, of the decree of June 18, 1811.

A public administrative regulation shall determine the manner of fixing the amount and the method of payment of this remuneration.

ART. 18. Every delegate who, without lawful reason, shall not take part in all the ballotings, or having been hindered, shall not have given notice to the alternate in sufficient time, shall, upon the demand of the public prosecutor, be fined fifty francs by the civil tribunal of the seat of government.

The same penalty may be imposed upon the alternate who, after having been notified by letter, telegram, or notice personally delivered in due time, shall not have taken part in the election.

ART. 19. Every attempt at corruption by the employment of means enumerated in Arts. 177 and following, of the Penal Code, to influence the vote of an elector, or to keep him from voting, shall be punished by imprisonment of from three months to two years, and by a fine of from fifty to five hundred francs, or by either of these penalties.

Art. 463 of the Penal Code shall apply to the penalties imposed by the present article.[7]

[6] Amended by Art. 8, law of December 9, 1884; see p. 315.

[7] Amended by Art. 8, law of December 9, 1884; see p. 316.

ART. 20. A senator shall not at the same time be a councilor of state, maître des requêtes, prefect, or subprefect, unless prefect of the Seine or prefect of police; member of the courts of appeal [8] or of the tribunals of first instance, unless public prosecutor at the court of Paris; general paymaster, special receiver, official or employé of the central administration of the ministries.[9]

ART. 21. No one of the following officers shall be elected by the department or the colony included wholly or partially in his jurisdiction, during the exercise of his duties or during the six months following the cessation of his duties by resignation, dismissal, change of residence, or other cause:

1) The first presidents, presidents, and members of the courts of appeal.

2) The presidents, vice-presidents, examining magistrates, and members of the tribunals of first instance.

3) The prefect of police; prefects and subprefects, and secretaries-general of prefectures; the governors, directors of the interior, and secretaries-general of the colonies.

4) The engineers in chief and of the arrondissement, and road-surveyors in chief and of the arrondissement.

5) The rectors and inspectors of academies.

6) The inspectors of primary schools.

7) The archbishops, bishops, and vicars-general.

8) The officers of all grades of the land and naval forces.

9) The division commissaries and the military deputy commissaries.

10) The general paymasters and special receivers of money.

[8] France is divided into twenty-six judicial districts, in each of which there is a court of appeal. There are similar courts in Algeria and the colonies. The Court of Cassation is the supreme court of appeal for all France, Algeria, and the colonies.

[9] See law of December 26, 1887, p. 317. By Art. 3 of the law of November 16, 1897, the director and under-director of the Bank of France are ineligible as deputies or senators.

11) The superintendents of direct and indirect taxes, of registration, of public property, and of posts.

12) The commissioners and inspectors of forests.

ART. 22. A senator elected in several departments shall make known his choice to the president of the Senate within ten days following the verification of the elections. If a choice is not made in this time, the question shall be settled by lot in open session.

The vacancy shall be filled within one month and by the same electoral body.

The same holds true in case of an invalidated election.

ART. 23. If by death or resignation the number of senators of a department is reduced by one-half, the vacancies shall be filled within the space of three months, unless the vacancies occur within twelve months preceding the triennial elections.

At the time fixed for the triennial elections, all vacancies which have occurred shall be filled, whatever their number or date.[10]

ART. 24. The election of senators chosen by the National Assembly shall take place in public sitting, by *scrutin de liste*, and by an absolute majority of votes, whatever the number of ballotings.[11]

ART. 25. When it is necessary to elect successors of senators chosen by virtue of Art. 7 of the law of February 24, 1875, the Senate shall proceed in the manner indicated in the preceding article.[11]

ART. 26. Members of the Senate shall receive the same salaries as members of the Chamber of Deputies.[12]

ART. 27. All provisions of the electoral law relating to the following matters are applicable to elections of senators:

1) to cases of unworthiness and incapacity;

[10] Amended by Art. 8, law of December 9, 1884; see p. 316.

[11] Arts. 24 and 25 were repealed by Art. 9, law of December 9, 1884.

[12] See Art. 17, law of November 30, 1875, p. 307.

2) to offenses, prosecutions, and penalties;

3) to election proceedings, in all matters not contrary to the provisions of the present law.[13]

ORGANIC LAW ON THE ELECTION OF DEPUTIES[1]

(November 30, 1875)

ARTICLE 1. The deputies shall be chosen by the voters registered:

1) upon the lists drawn up in accordance with the law of July 7, 1874;

2) upon the supplementary list including those who have lived in the commune six months.

Registration upon the supplementary list shall take place conformably to the laws and regulations now governing the political electoral lists, by the committees and according to the forms established by Arts. 1, 2, and 3 of the law of July 7, 1874.

Appeals relating to the formation and revision of either list shall be brought directly before the Civil Chamber of the Court of Cassation.

The electoral lists drawn up on March 31, 1875, shall serve until March 31, 1876.

ART. 2. The soldiers of all ranks and grades, of both land and naval forces, shall not vote when they are with their regiment, at their post, or on duty. Those who, on election day, are in private residence, in non-activity or in possession of a regular leave of absence, may vote in the commune on the lists of which they are duly registered. This last provision shall apply equally to officers on the unattached list or on the reserve list.

[13] Arts. 28 and 29 of this law were of a temporary character, and are therefore omitted.

[1] This law was amended by laws of June 16, 1885, and February 13, 1889; see pp. 316, 318.

ART. 3. During the electoral period, circulars and platforms signed by the candidates, electoral placards and manifestoes signed by one or more voters, may, after being deposited with the public prosecutor, be posted and distributed without previous authorization.

The distribution of ballots shall not be subject to the formality of deposit.

Every public or municipal officer is forbidden to distribute ballots, platforms, or circulars of candidates.

The provisions of Art. 19 of the organic law of August 2, 1875, on the election of senators, shall apply to the election of deputies.

ART. 4. The balloting shall last one day only. The voting shall occur at the municipal building of the commune; each commune may nevertheless be divided, by order of the prefect, into as many sections as local circumstances and the number of voters may require. The second ballot shall take place on the second Sunday following the announcement of the first ballot, in accordance with the provisions of Art. 65 of the law of March 15, 1849.

ART. 5. The method of voting shall be in accordance with the provisions of the organic and regulating decrees of February 2, 1852.

The ballot shall be secret.

The voting lists used at the elections in each section, signed by the president and secretary, shall remain deposited for one week at the secretary's office at the town hall, where they shall be communicated to every voter requesting them.

ART. 6. Every voter shall be eligible, without any property qualification, at the age of twenty-five years.[2]

ART. 7. No soldier or sailor in active service may, whatever his rank or position, be elected a member of the Chamber of Deputies.

[2] By law of July 20, 1895, no one may become a member of Parliament unless he has complied with the law regarding military service.

This provision applies to soldiers and sailors on the unattached list or in non-activity, but does not extend to officers of the second section of the list of the general staff, nor to those who, kept in the first section for having been commander-in-chief in the field, have ceased to be actively employed, nor to officers who, having gained the right to retire, are sent to or maintained at their homes while awaiting the settlement of their pension.

The decision by which the officer shall have been permitted to establish his rights on the retired list shall become, in this case, irrevocable.

The rule laid down in the first paragraph of the present article shall not apply to the reserve of the active army or to the territorial army.

ART. 8. The exercise of public duties paid out of the treasury of the state is incompatible with the office of deputy.[3]

Consequently every official elected shall be superseded in his duties if, within one week following the verification of his powers, he has not signified that he does not accept the office of deputy.

There are excepted from the preceding provisions the duties of minister, under-secretary of state, ambassador, minister plenipotentiary, prefect of the Seine, prefect of police, first president of the Court of Cassation, first president of the Court of Accounts, first president of the Court of Appeal of Paris, attorney-general of the Court of Cassation, attorney-general of the Court of Accounts, attorney-general of the Court of Appeal of Paris, archbishop and bishop, consistorial presiding pastor in consistorial districts the seat of government of which has two or more pastors, chief rabbi of the central Consistory, chief rabbi of the Consistory of Paris.

[3] By Art. 3 of the law of November 16, 1897, the director and under-director of the Bank of France are ineligible as deputies or senators.

ART. 9. There are also excepted from the provisions of Art. 8:

1) titular professors of chairs which are filled by competition or upon the nomination of the bodies where the vacancy occurs;

2) persons who have been charged with a temporary mission. All missions continuing more than six months cease to be temporary and are governed by Art. 8.

ART. 10. The officer preserves the rights which he has acquired to a retiring pension, and may, after the expiration of his term of office, be restored to active service.

The civil officer who, having had twenty years of service at the date of the acceptance of the office of deputy, shall be fifty years of age at the time of the expiration of this term of office, may establish his rights to an exceptional retiring pension.

This pension shall be regulated according to the third paragraph of Art. 12 of the law of June 9, 1853.

If the officer is restored to active service after the expiration of his term of office, the provisions of Art. 3, paragraph 2, and Art. 28 of the law of June 9, 1853, shall apply to him.

In duties where the rank is distinct from the employment, the officer, by the acceptance of the office of deputy, loses the employment and preserves the rank only.

ART. 11. Every deputy appointed or promoted to a salaried public position shall cease to belong to the Chamber by the very fact of his acceptance; but he may be re-elected, if the office which he occupies is compatible with the office of deputy.

Deputies who become ministers or under-secretaries of state shall not be required to seek re-election.

ART. 12. The following officers shall not be elected by the arrondissement or the colony included wholly or partially in their jurisdiction, during the exercise of their duties or for six months following the cessation of their duties, because of

resignation, dismissal, change of residence, or any other cause:

1) The first-presidents, presidents, and members of the Courts of Appeal.

2) The presidents, vice-presidents, titular judges, examining magistrates, members of the tribunals of first instance, [and justices of the peace in active service].[4]

3) The prefect of police; the prefects and secretaries-general of the prefectures; the governors, directors of the interior, and secretaries-general of the colonies.

4) The engineers in chief and of the arrondissement, and road surveyors in chief and of the arrondissement.

5) The rectors and inspectors of academies.

6) The inspectors of primary schools.

7) The archbishops, bishops, and vicars-general.

8) The general paymasters and special receivers of money.

9) The superintendents of direct and indirect taxes, of registration, of public property, and of posts.

10) The commissioners and inspectors of forests.

The subprefects [and councilors of the prefecture[5]] shall not be elected in any of the arrondissements of the department in which they perform their duties.

ART. 13. Every attempt to bind deputies by instructions is null and void.

ART. 14. Members of the Chamber of Deputies shall be elected by single districts. Each administrative arrondissement shall elect one deputy. Arrondissements having more than 100,000 inhabitants shall elect one deputy in addition for every additional 100,000 inhabitants or fraction of 100,000. Arrondissements, in such cases, shall be divided into districts

[4] Justices of the peace and councilors of the prefecture were rendered ineligible by law of March 30, 1902.

[5] Justices of the peace and councilors of the prefecture are made ineligible by law of March 30, 1902.

whose boundaries shall be established by law and may be changed only by law.[6]

ART. 15. Deputies shall be chosen for four years.

The Chamber shall be renewed integrally.

ART. 16. In case of vacancy by death, resignation, or otherwise, a new election shall be held within three months of the date when the vacancy occurred.

In case of option,[7] the vacancy shall be filled within one month.

ART. 17. The legislative indemnity is fixed at fifteen thousand (15,000) francs[8] per year, beginning with the first of January, 1907. It is regulated by the second paragraph of Art. 96 and by Art. 97 of the law of March 15, 1849, as well as by the provisions of the law of February 16, 1872.

ART. 18. No one shall be elected on the first ballot unless he receives:

1) an absolute majority of the votes cast;

2) a number of votes equal to one-fourth of the number of voters registered.

On the second ballot a plurality is sufficient. In case of an equality of votes, the oldest is elected.

ART. 19. Each department of Algeria shall elect one deputy.[9]

ART. 20. The voters living in Algeria in a place not yet made a commune, shall be registered on the electoral list of the nearest commune.

When it is necessary to establish electoral districts, either for the purpose of grouping mixed communes in each of which

[6] By law of June 16, 1885, the *scrutin de liste* was introduced, but the law of February 13, 1889, re-established the system of single districts. See pp. 316, 318.

[7] I. e., when a deputy has been elected from two or more districts, and decides which one he will serve.

[8] As altered by law of November 23, 1906; before the passage of this law deputies and senators received nine thousand francs per year.

[9] Changed by law of February 13, 1889; see p. 318.

the number of voters is insufficient, or to bring together voters living in places not formed into communes, the decrees for fixing the seat of these districts shall be issued by the governor-general, upon the report of the prefect or of the general commanding the division.

ART. 21. The four colonies to which senators have been assigned by the law of February 24, 1875, on the organization of the Senate, shall choose one deputy each.[10]

ART. 22. Every violation of the prohibitive provisions of Art. 3, paragraph 3, of the present law shall be punished by a fine of from sixteen francs to three hundred francs. Nevertheless the criminal courts may apply Art. 463 of the Penal Code.

The provisions of Art. 6 of the law of July 7, 1874, shall apply to the political electoral lists.

The decree of January 29, 1871, and the laws of April 10, 1871, May 2, 1871, and of February 18, 1873, are repealed.

Paragraph 11 of Art. 15 of the organic decree of February 2, 1852, is also repealed, in so far as it refers to the law of May 21, 1836, on lotteries, reserving, however, to the courts the right to apply Art. 42 of the Penal Code to convicted persons.

The provisions of the laws and decrees now in force, not in conflict with the present law, shall continue to be applied.

ART. 23. The provision of Art. 12 of the present law by which an interval of six months must elapse between the cessation of duties and election, shall not apply to officials other than prefects and subprefects, whose duties shall have ceased either before the promulgation of the present law or within twenty days thereafter.

[10] Changed by law of February 13, 1889; see p. 318.

LAW RELATING TO THE SEAT OF THE EXECUTIVE POWER AND OF THE TWO CHAMBERS AT PARIS

(July 22, 1879)

ARTICLE 1. The seat of the executive power and of the two chambers is at Paris.

ART. 2. The palace of the Luxemburg and the Palais-Bourbon are assigned, the first to the use of the Senate, and the second to that of the Chamber of Deputies.

Nevertheless each of the chambers is authorized to choose, in the city of Paris, the palace which it wishes to occupy.

ART. 3. The various parts of the palace of Versailles now occupied by the Senate and the Chamber of Deputies shall preserve their arrangements.

Whenever, according to Arts. 7 and 8 of the law of February 25, 1875, on the organization of the public powers, a meeting of the National Assembly takes place, it shall sit at Versailles, in the present hall of the Chamber of Deputies.

Whenever, according to Art. 9 of the law of February 24, 1875, on the organization of the Senate, and Art. 12 of the constitutional law of July 16, 1875, on the relations of the public powers, the Senate shall be called upon to constitute itself a court of justice, it shall indicate the town and place where it proposes to sit.

ART. 4. The Senate and Chamber of Deputies shall sit at Paris on and after November 3 next.

ART. 5. The presidents of the Senate and of the Chamber of Deputies are charged with the duty of securing the external and internal safety of the chambers over which they preside.

For this purpose they shall have the right to call upon the armed forces and upon authorities whose assistance they consider necessary.

Such requisitions may be addressed directly to all officers,

commanders, or officials, who are bound to obey immediately, under the penalties established by the laws.

The presidents of the Senate and of the Chamber of Deputies may delegate to the questors or to one of them their right of demanding aid.

ART. 6. Petitions to either of the chambers shall be made and presented only in writing. It is forbidden to present them in person or at the bar.

ART. 7. Every violation of the preceding article, every provocation, by public speeches, by writings, or by printed matter, posted or distributed, to a crowd upon the public ways, having for its object the discussion, drawing up, or carrying to the chambers or to either of them, of petitions, declarations, or addresses, shall be punished by the penalties enumerated in paragraph 1 of Art. 5 of the law of June 7, 1848, whether or not any results follow from such actions.

ART. 8. The preceding provisions do not diminish the force of the law of June 7, 1848, on riotous assemblies.

ART. 9. Art. 463 of the Penal Code is applicable to the offenses mentioned in the present law.

LAW AMENDING THE ORGANIC LAWS ON THE ORGANIZATION OF THE SENATE AND THE ELECTION OF SENATORS

(December 9, 1884)

ARTICLE 1. The Senate shall be composed of three hundred members, elected by the departments and the colonies.

The present members, without any distinction between senators elected by the National Assembly or by the Senate and those elected by the departments and colonies, shall retain their offices during the time for which they have been chosen.

ART. 2. The department of the Seine shall elect ten senators.

The department of the Nord shall elect eight senators.

The following departments shall elect five senators each: Côtes-du-Nord, Finistère, Gironde, Ille-et-Vilaine, Loire, Loire-Inférieure, Pas-de-Calais, Rhône, Saône-et-Loire, Seine-Inférieure.

The following departments shall elect four senators each: Aisne, Bouches-de-Rhône, Charente-Inférieure, Dordogne, Haute-Garonne, Isère, Maine-et-Loire, Manche, Morbihan, Puy-de-Dôme, Seine-et-Oise, Somme.

The following departments shall elect three senators each: Ain, Allier, Ardèche, Ardennes, Aube, Aude, Aveyron, Calvados, Charente, Cher, Corrèze, Corse, Côte-d'Or, Creuse, Doubs, Drôme, Eure, Eure-et-Loir, Gard, Gers, Hérault, Indre, Indre-et-Loire, Jura, Landes, Loir-et-Cher, Haute-Loire, Loiret, Lot, Lot-et-Garonne, Marne, Haute-Marne, Mayenne, Meurthe-et-Moselle, Meuse, Nièvre, Oise, Orne, Basses-Pyrénées, Haute-Saône, Sarthe, Savoie, Haute-Savoie, Seine-et-Marne, Deux-Sèvres, Tern, Var, Vendée, Vienne, Haute-Vienne, Vosges, Yonne.

The following departments shall elect two senators each: Basses-Alpes, Hautes-Alpes, Alpes-Maritimes, Ariège, Cantal, Lozère, Hautes-Pyrénées, Pyrénées-Orientales, Tarn-et-Garonne, Vaucluse.

The following shall elect one senator each: The territory of Belfort, the three departments of Algeria, the four colonies: Martinique, Guadeloupe, Réunion, and French Indies.

ART. 3. In the departments where the number of senators is increased by the present law, the increase shall take effect as vacancies occur among the life senators.

For this purpose, within a week after the vacancy occurs, it shall be determined by lot in public session what department shall be called upon to elect a senator.

This election shall take place within three months of the determination by lot. However, if the vacancy occurs within six months preceding the triennial election, the vacancy shall not be filled until that election.

The term of office in case of a special election shall expire at the same time as that of the other senators belonging to the same department.

ART. 4. No one shall be a senator unless he is a French citizen at least forty years of age and in the enjoyment of civil and political rights.[1]

Members of families that have reigned in France are ineligible to the Senate.

ART. 5. The soldiers of the land and naval forces shall not be elected senators.

There are excepted from this provision:

1) The marshals of France and admirals.

2) The general officers maintained without limit of age in the first section of the list of the general staff and not provided with a command.

3) The general officers placed in the second section of the list of the general staff.

4) Members of the land and naval forces who belong either to the reserve of the active army or to the territorial army.

ART. 6. Senators shall be elected by *scrutin de liste*, by a college meeting at the capital of the department or of the colony, and composed:

1) of the deputies;

2) of the general councilors;

3) of the councilors of the arrondissement;

4) of delegates elected from among the voters of the commune, by each municipal council.

Councils composed of ten members shall elect one delegate.

Councils composed of twelve members shall elect two delegates.

Councils composed of sixteen members shall elect three delegates.

[1] By law of July 20, 1895, no one may become a member of Parliament unless he has complied with the law regarding military service.

Councils composed of twenty-one members shall elect six delegates.

Councils composed of twenty-three members shall elect nine delegates.

Councils composed of twenty-seven members shall elect twelve delegates.

Councils composed of thirty members shall elect fifteen delegates.

Councils composed of thirty-two members shall elect eighteen delegates.

Councils composed of thirty-four members shall elect twenty-one delegates.

Councils composed of thirty-six members or more shall elect twenty-four delegates.

The Municipal Council of Paris shall elect thirty delegates.

In the French Indies the members of the local councils shall take the place of councilors of the arrondissement. The municipal council of Pondichéry shall elect five delegates. The municipal council of Karikal shall elect three delegates. All of the other communes shall elect two delegates each.

The balloting takes place at the seat of government of each district.

ART. 7. Members of the Senate shall be elected for nine years.

The Senate shall be renewed every three years according to the order of the present series of departments and colonies.

ART. 8. Arts. 2 (paragraphs 1 and 2), 3, 4, 5, 8, 14, 16, 19, and 23 of the organic law of August 2, 1875, on the elections of senators, are amended as follows:

"Art. 2 (paragraphs 1 and 2). In each municipal council the election of delegates shall take place without debate and by secret ballot, by *scrutin de liste* and by an absolute majority of votes cast. After two ballots a plurality shall be sufficient, and in case of an equality of votes the oldest is elected.

"The procedure and method shall be the same for the election of alternates.

"Councils having one, two, or three delegates to choose shall elect one alternate.

"Those choosing six or nine delegates shall elect two alternates.

"Those choosing twelve or fifteen delegates shall elect three alternates.

"Those choosing eighteen or twenty-one delegates shall elect four alternates.

"Those choosing twenty-four delegates shall elect five alternates.

"The municipal council of Paris shall elect eight alternates.

"The alternates shall take the place of delegates in case of refusal or inability to serve, in the order determined by the number of votes received by each of them.

"Art. 3. In communes where the duties of the municipal council are performed by a special delegation organized by virtue of Art. 44 of the law of April 5, 1884, the senatorial delegates and alternates shall be chosen by the former council.

"Art. 4. If the delegates were not present at the election, notice shall be given them by the mayor within twenty-four hours. They shall within five days notify the prefect of their acceptance. In case of declination or silence they shall be replaced by the alternates, who shall then be placed upon the list as the delegates of the commune.

"Art. 5. The official report of the election of delegates and alternates shall be transmitted at once to the prefect. It shall indicate the acceptance or declination of the delegates and alternates, as well as the protests made by one or more members of the municipal council against the legality of the election. A copy of this official report shall be posted on the door of the town hall.

"Art. 8. Protests concerning the election of delegates or of alternates shall be decided, subject to an appeal to the

Council of State, by the council of the prefecture, and, in the colonies, by the privy council.

"Delegates whose elections may be set aside because they do not satisfy the conditions demanded by law, or because of informality, shall be replaced by the alternates.

"In case the election of a delegate and of an alternate is annulled, or in the case of the refusal or death of both of them after their acceptance, new elections shall be held by the municipal council on a day fixed by an order of the prefect.

"Art. 14. The first ballot shall begin at eight o'clock in the morning and close at noon. The second shall begin at two o'clock and close at five o'clock. The third shall begin at seven o'clock and close at ten o'clock. The results of the balloting shall be canvassed by the bureau and announced immediately by the president of the electoral college.

"Art. 16. Political meetings for the nomination of senators may be held from the date of the promulgation of the decree summoning the electors up to the day of the election, inclusive.

"The declaration prescribed by Article 2 of the law of June 30, 1881, shall be made by two voters, at least.[2]

"The forms and regulations of this article, as well as those of article 3, shall be observed.

"The members of Parliament elected or electors in the department, the senatorial electors, delegates and alternates, and the candidates, or their representatives, may alone be present at these meetings.

"The municipal authorities shall see to it that no other person is admitted.

"Delegates and alternates shall present as a means of identification a certificate from the mayor of the commune; candidates or their representatives, a certificate from the offi-

[2] The law of June 30, 1881, relates to notice which must be given to the authorities before any public meeting can be held.

cial who shall have received the declaration mentioned in paragraph 2.

"Art. 19. Every attempt at corruption or constraint by the employment of means enumerated in Arts. 177 and following of the Penal Code, to influence the vote of an elector or to keep him from voting, shall be punished by imprisonment of from three months to two years, and by a fine of from fifty francs to five hundred francs, or by either of these penalties.

"Art. 463 of the Penal Code is applicable to the penalties provided by the present article.

"Art. 23. Vacancies caused by the death or resignation of senators shall be filled within three months; however, if the vacancy occurs within six months preceding the triennial elections, it shall not be filled until those elections."

ART. 9. There are repealed:

1) Arts. 1 to 7 of the law of February 24, 1875, on the organization of the Senate.

2) Arts. 24 and 25 of the law of August 2, 1875, on the elections of senators.[3]

LAW AMENDING THE ELECTORAL LAW [1]

(June 16, 1885)

ARTICLE 1. The members of the Chamber of Deputies shall be elected by *scrutin de liste.*

ART. 2. Each department shall elect the number of deputies assigned to it in the table annexed to the present law, on the basis of one deputy for seventy thousand inhabitants, foreign residents not included. Account shall be taken, nevertheless, of every fraction smaller than seventy thousand.

Each department shall elect at least three deputies.

[3] The temporary provisions of this law are omitted. They are practically repeated in the law of December 26, 1887, on parliamentary incompatibilities. See p. 317.

[1] Arts. 1, 2, and 3 of this law were repealed by law of February 13, 1889. See p. 318.

Two deputies are assigned to the territory of Belfort, six to Algeria, and ten to the colonies, as is indicated by the table. This table shall only be changed by law.

ART. 3. The department shall form a single electoral district.

ART. 4. Members of families that have reigned in France are ineligible to the Chamber of Deputies.[2]

ART. 5. No one shall be elected on the first ballot unless he receives:

1) an absolute majority of the votes cast;

2) a number of votes equal to one-fourth of the total number of voters registered.

On the second ballot a plurality shall be sufficient.

In case of an equality of votes, the oldest of the candidates is elected.

ART. 6. Subject to the case of a dissolution provided for and regulated by the constitution, the general elections shall take place within the sixty days preceding the expiration of the powers of the Chamber of Deputies.

ART. 7. Vacancies which occur in the six months preceding the renewal of the Chamber shall not be filled.

LAW ON PARLIAMENTARY INCOMPATIBILITIES

(December 26, 1887)

Until the passage of a special law on parliamentary incompatibilities, Arts. 8 and 9 of the law of November 30, 1875, shall apply to senatorial elections.[1]

Every officer affected by this provision who has had twenty years of service and is fifty years of age at the time of his acceptance of the office of senator, may establish his rights to a proportional retiring pension, which shall be governed by the third paragraph of Art. 12 of the law of June 9, 1853.

[2] For similar provisions regarding the presidency of the Republic and the Senate, see Art. 2 of the constitutional law of August 13, 1884, and Art. 4 of the law of December 9, 1884, pp. 294, 312.

[1] See this law, p. 302. See also Art. 20 of the law of August 2, 1875, p. 300.

LAW RE-ESTABLISHING SINGLE DISTRICTS FOR THE ELECTION OF DEPUTIES

(February 13, 1889)

ARTICLE 1. Arts. 1, 2, and 3 of the law of June 16, 1885, are repealed.

ART. 2. Members of the Chamber of Deputies shall be elected by single districts. Each administrative arrondissement in the departments, and each municipal arrondissement at Paris and at Lyons, shall elect one deputy. Arrondissements the population of which exceeds one hundred thousand inhabitants shall elect an additional deputy for every one hundred thousand or fraction of one hundred thousand inhabitants. Arrondissements in such cases shall be divided into districts, a table[1] of which is annexed to the present law and shall only be changed by law.

ART. 3. One deputy is assigned to the territory of Belfort, six to Algeria, and ten to the colonies, as is indicated by the table.

ART. 4. On and after the promulgation of the present law, until the renewal of the Chamber of Deputies, vacancies occurring in the Chamber of Deputies shall not be filled.

LAW ON MULTIPLE CANDIDATURES

(July 17, 1889)

ARTICLE 1. No one shall be a candidate in more than one district.

ART. 2. Every citizen who offers himself or is offered at the general or partial elections shall, by a declaration signed or countersigned by himself and duly legalized, make known in what district he intends to be a candidate. This declaration shall be deposited, and a provisional receipt obtained therefor,

[1] This table is omitted. It may be found in the *Journal officiel* for February 14, 1889; it has been modified by laws of July 22, 1893, April 6, 1898, and March 30, 1902.

at the prefecture of the department concerned at least five days before the day of election. A definitive receipt shall be delivered within twenty-four hours.

ART. 3. Every declaration made in violation of Art. 1 of the present law is void and shall not be received.

If declarations are deposited by the same citizen in more than one district the earliest in date alone is valid. If they bear the same date, all are void.

ART. 4. It is forbidden to sign or post placards, to carry or distribute ballots, circulars, or platforms in the interest of a candidate who has not conformed to the requirements of the present law.

ART. 5. Ballots bearing the name of a citizen whose candidacy is put forward in violation of the present law shall not be included in the return of votes. Posters, placards, platforms, and ballots posted or distributed in support of a candidacy in a district where such candidacy is contrary to the law, shall be removed or seized.

ART. 6. A fine of ten thousand francs shall be imposed upon the candidate violating the provisions of the present law, and a fine of from one to five thousand francs on all persons acting in violation of Art. 4 of the present law.

GERMANY

In 1806 the Holy Roman Empire came to an end. By the peace of Pressburg Austria lost a large part of its territory and recognized Bavaria, Baden, and Württemberg as independent states. By their union into the Confederation of the Rhine on July 12, 1806, the smaller German states ceased to have even nominal connection with the empire which was to disappear a few weeks later. The Confederation of the Rhine which included practically all of the German states except Austria and Prussia ceased to exist when the fortunes of war turned against the French.

After the fall of Napoleon it proved impossible to restore the old empire, but the equally futile and powerless German Confederation was erected in its place. The Confederation Act of June 8, 1815, was amended by the Vienna Final Act of May 15, 1820, which united the states for the repression of liberal principles, but gave to the Confederation no additional power for good.

Until the revolution of 1848 the movement for German unity was confined largely to liberal theorists, though the customs union which Prussia had formed with many of the smaller states furnished an example of the material benefits to be gained by closer union.

The revolution of 1848 forced the governments to act. A German National Assembly met on May 18, 1848, and after a long and to a great extent fruitless debate, adopted the Imperial Constitution of March 28, 1849. Frederick William IV of Prussia was chosen emperor. But by this time the liberal movement had begun to lose force; Austria had gained the victory over the revolutionary forces within its borders, and was resolved to oppose any scheme which would give to Prussia the leadership of a united Germany. The King of Prussia refused the proffered crown, and all hope of German unity for the time came to an end. The attempt of Prussia to establish a league of states also failed because of the opposition of Austria. The German

Confederation was re-established, to continue until Austria should be expelled from Germany by force of arms.

The Schlesvig-Holstein affair led to an open conflict between Prussia and Austria in 1866. Upon the motion of Austria the Federal Diet on June 14, 1866, decided to mobilize the forces of the empire against Prussia; that state, which had protested against this action, declared the Confederation dissolved. In the war which followed Austria and her allies among the small states were signally defeated and by the Peace of Prague of August 23, 1866, Austria gave its "consent to the new organization of Germany without the participation of the Austrian Empire." Hanover, Electoral Hesse, Holstein, Schlesvig, Nassau, and Frankfort were merged into the Prussian territory.

On August 18, 1866, the small states of North Germany entered into a treaty accepting the conditions proposed by Prussia on June 10, 1866, for the establishment of a German Confederation. In consequence of this agreement an elected assembly met at Berlin on February 24, 1867, and adopted a constitution of the North German Confederation; this constitution was ratified by the several states and went into effect on July 1, 1867.

By the Treaty of Prague the relations of the South German states to the new Confederation were to be settled by future negotiations. Bavaria, Württemberg, Baden, and Hesse entered the customs union and concluded offensive and defensive alliances with Prussia, but held back from any closer connection; it required the national feeling aroused by the war with France to complete the establishment of the German Empire. In November, 1870, the four South German states signed treaties giving in their adhesion to the Confederation; on December 10, 1870, the German Confederation became the German Empire; the King of Prussia assumed the imperial title at Versailles on January 18, 1871.

By the treaties with the South German states changes had been introduced into the constitution of the North German Confederation; the constitution of the empire was now contained in four documents: (1) the constitution of the North German Confederation; (2) the treaty of November 15, 1870, between the North German Confederation, Baden, and Hesse; (3) the

treaty of November 25, 1870, between the North German Confederation, Baden, and Hesse on the one side and Württemberg on the other; (4) the treaty of November 23, 1870, concerning the adhesion of Bavaria to the North German Confederation. The imperial constitution of April 16, 1871, was practically a consolidation of the permanent provisions of these four instruments.

Since 1871 the constitution has been amended ten times; these amendments are indicated in their proper places in the text given below. The acquisition of Alsace-Lorraine and of Heligoland involved no change in the text of the constitution.

In the text of the constitution which is given below only the formal amendments have been indicated. By means of addition of territory, interpretation in practice, and of ordinary legislation, the constitution has in fact undergone many other changes of importance. In a recent article[1] Professor Laband calls attention to the following alterations which have taken place in this informal manner:

1) Art. 1, through the extension of the imperial territory.

2) Art. 4, through the extension of the competence of the empire to matters which are not mentioned therein.

3) Art. 13, through the practice which has developed of having the Bundesrat sit permanently.

4) Art. 17, through the establishment of responsible substitutes for the imperial chancellor, and the creation of the office of *Statthalter* of Alsace-Lorraine.

5) Art. 18, paragraph 1, through the creation, by the law of March 9, 1899, of a separate section in the inperial military court, whose members are appointed by the king of Bavaria.

6) Art. 20, paragraph 2, through the addition of deputies from Alsace-Lorraine.

7) Art. 34, through the admission of Hamburg and Bremen within the common customs frontier.

8) Art. 35, through the introduction of new consumption taxes, and through the entry of the South German states into the general system of taxation of brandy.

[1] "Die geschichtliche Entwicklung der Reichsverfassung seit der Reichsgründung," *Jahrbuch des oeffentlichen Rechts*, Vol. I.

9) Art. 38, paragraph 1, through the assignment to the states of revenues derived from the tobacco tax and from the consumption tax on brandy.

10) Art. 50, paragraph 2, by sec. 50 of the law of October 28, 1871, regarding the postal system.

11) Art. 54, paragraph 4, by the imperial law of April 5, 1886.

12) Art. 60, by the imperial law of May 26, 1893.

13) Art. 74, by the Criminal Code.

14) Art. 75, by the *Gerichtsverfassungsgesetz* of January 27, 1877.

Art. 77 and the temporary provisions contained in Arts. 18, 51, 56, 61, and 71 have also ceased to be in force.

SELECT BIBLIOGRAPHY

BINDING, KARL. *Die Verfassungen des norddeutschen Bundes vom 17. April 1867 und des deutschen Reichs vom 16. April 1871.* (Grössere Ausgabe, 3d ed., Leipzig, 1906.) The most convenient edition of the constitution without commentary.

RÖNNE, L. v. *Verfassung des deutschen Reichs.* (8th ed., Berlin, 1899.) A well-edited text of the imperial constitution.

TRIEPEL, HEINRICH. *Quellensammlung zum deutschen Reichsstaatsrecht.* (Leipzig, 1901.) Contains text of all important laws bearing on the organization of the imperial government.

ARNDT, ADOLF. *Verfassung des deutschen Reichs.* Mit Einleitung und Kommentar. (Berlin, 1902.)

HOWARD, BURT ESTES. *The German Empire.* (New York, 1906.) The only English treatise upon the German government. It gives a good account of the structure of the imperial government, but devotes little attention to the manner in which the government works, and to the relations between the empire and the states.

LABAND, PAUL. *Das Staatsrecht des deutschen Reiches.* (4th ed., Tübingen, 1901. 4 vols.) The most extensive and the best treatise on German public law. A French translation has been issued (Paris, 1900–04. 6 vols.). Dr. Laband also has a briefer commentary, *Deutsches Reichsstaatsrecht.* (3d ed., Tübingen, 1906.)

ARNDT, ADOLF. *Das Staatsrecht des deutschen Reichs.* (Berlin, 1901.)

HAENEL, ALBERT. *Deutsches Staatsrecht.* (Leipzig, 1892. Vol. I.)

SEYDEL, MAX VON. *Commentar zum Verfassungs-Urkunde für das deutsche Reich.* (2d ed., Freiburg, 1897.)

ZORN, PHILIPP. *Das Staatsrecht des deutschen Reiches.* (2d ed., Berlin, 1895–97. 2 vols.)

COMBES DE LESTRADE, G. *Les monarchies de l'empire allemand; organisation constitutionnelle et administrative.* (Paris, 1904.) The most satisfactory account of government in the German states.

HUE DE GRAIS. *Handbuch der Verfassung und Verwaltung in Preussen und dem deutschen Reiche.* (18th ed., Berlin, 1907.) A brief treatise which may almost be called a classic in its field.

MAYER, OTTO. *Deutsches Verwaltungsrecht.* (Leipzig, 1895–96. 2 vols.) The best book upon German administrative law. A French translation has been made by the author (Paris, 1903–06. 4 vols.).

CONSTITUTION OF THE GERMAN EMPIRE[1]

(April 16, 1871)

His Majesty the King of Prussia, in the name of the North German Confederation, His Majesty the King of Bavaria, His Majesty the King of Württemberg, His Royal Highness the Grand Duke of Baden, and His Royal Highness the Grand Duke of Hesse and Rhenish Hesse for those parts of the Grand Duchy of Hesse lying south of the Main, conclude an eternal alliance for the protection of the territory of the Confederation, and of the rights of the same as well as for the promotion of the welfare of the German people. This Confederation shall bear the name of the German Empire, and shall have the following Constitution:

I. FEDERAL TERRITORY

ARTICLE 1. The territory of the Confederation shall consist of the states of Prussia with Lauenburg, Bavaria, Saxony, Württemberg, Baden, Hesse, Mecklenburg-Schwerin, Saxe-Weimer, Mecklenburg-Strelitz, Oldenburg, Brunswick, Saxe-

[1] In the preparation of this text use has been made of the translation in Howard's *German Empire*, and of that issued by Professor E. J. James (2d ed., Philadelphia, 1899).

Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck, Reuss elder line, Reuss younger line, Schaumburg-Lippe, Lippe, Lübeck, Bremen, and Hamburg.

II. LEGISLATION OF THE EMPIRE

ART. 2. Within this federal territory the Empire shall exercise the right of legislation in accordance with the provisions of this constitution; and the laws of the Empire shall take precedence of the laws of the states. The laws of the Empire shall receive their binding force by imperial promulgation, through the medium of an imperial gazette. If no other time is designated for the published law to take effect, it shall become effective on the fourteenth day after its publication in the *Imperial Gazette* at Berlin.

ART. 3. There shall be a common citizenship for all Germany, and the members (subjects or citizens) of each state of the Confederation shall be treated in every other state as natives, and shall accordingly have the right of becoming permanent residents; of carrying on business; of filling public offices; of acquiring real estate; of obtaining citizenship, and of enjoying all other civil rights under the same conditions as those born in the state, and shall also have the same treatment as regards judicial remedies and the protection of the laws.

No German shall be limited in the exercise of these rights by the authorities of his native state, or by the authorities of any other state of the confederation.

The regulations governing the care of paupers and their admission into the various local unions, shall not, however, be affected by the principle enunciated in the first paragraph.

In like manner, until further action, those treaties shall remain in force which have been concluded between the several states of the Confederation in relation to the taking over of persons liable to be deported, the care of sick and the burial of deceased citizens.

With respect to the performance of military service in the several states, the necessary laws will be passed by the Empire.

As against foreign countries all Germans shall have an equal claim upon the protection of the Empire.

ART. 4. The following matters shall be under the supervision of the Empire and subject to imperial legislation:

1) Regulations with respect to the freedom of migration; matters of domicile and settlement; citizenship; passports; surveillance of foreigners; trade and industry, including insurance; so far as these matters are not already provided for by Art. 3 of this constitution, in Bavaria, however, exclusive of matters relating to domicile and settlement; and likewise matters relating to colonization and emigration to foreign countries.

2) Legislation concerning customs duties, commerce, and such taxes as are to be applied to the uses of the Empire.

3) Regulation of weights and measures; of the coinage; and the establishment of the principles for the issue of funded and unfunded paper money.

4) General banking regulations.

5) Patents for inventions.

6) The protection of intellectual property.

7) The organization of a general system of protection for German trade in foreign countries, of German navigation, and of the German flag on the high seas; and the establishment of a common consular representation, which shall be maintained by the Empire.

8) Railway matters, subject in Bavaria to the provisions of Art. 46; and the construction of land and water ways for the purposes of public defense, and of general commerce.

9) Rafting and navigation upon waterways which are common to several states, the condition of such waterways, river and other water dues [and also the signals of maritime navigation (beacons, buoys, lights, and other signals)].[2]

[2] The last clause of this section was added by law of March 3, 1873.

10) Postal and telegraph affairs; in Bavaria and Württemberg, however, only in accordance with the provisions of Art. 52.

11) Regulations concerning the reciprocal execution of judicial sentences in civil matters, and the fulfilment of requisitions in general.

12) The authentication of public documents.

13) General legislation as to the whole domain of civil and criminal law, and judicial procedure.[3]

14) The imperial military and naval affairs.

15) Police regulation of medical and veterinary matters.

16) Laws relating to the press, and to the right of association.

ART. 5. The legislative power of the Empire shall be exercised by the Bundesrat and the Reichstag. A majority of the votes of both bodies shall be necessary and sufficient for the passage of a law.

With respect to laws concerning the army, or navy, or the taxes specified in Art. 35, the vote of the praesidium[4] shall decide in case of a difference of opinion in the Bundesrat, if such vote be in favor of the maintenance of existing arrangements.

III. THE BUNDESRAT

ART. 6. The Bundesrat shall consist of representatives of the members of the Confederation, among which the votes shall be divided in such manner that Prussia with the former votes of Hanover, Electoral Hesse, Holstein, Nassau, and Frankfort shall have 17 votes; Bavaria, 6; Saxony, 4; Württemberg, 4; Baden, 3; Hesse, 3; Mecklenburg-Schwerin, 2; Saxe-Weimar, 1; Mecklenburg-Strelitz, 1; Oldenburg, 1; Brunswick, 2; Saxe-Meiningen, 1; Saxe-Altenburg, 1; Saxe-

[3] As amended December 20, 1873. The original text read: "General legislation concerning the law of obligations, criminal law, commercial law and commercial paper, and judicial procedure."

[4] I. e., Prussia.

Coburg-Gotha, 1; Anhalt, 1; Schwarzburg-Rudolstadt, 1; Schwarzburg-Sondershausen, 1; Waldeck, 1; Reuss, elder line, 1; Reuss, younger line, 1; Schaumburg-Lippe, 1; Lippe, 1; Lübeck, 1; Bremen, 1; Hamburg, 1—total, 58 votes.

Each member of the Confederation may appoint as many delegates to the Bundesrat as it has votes, but the votes of each state shall be cast only as a unit.

ART. 7. The Bundesrat shall take action upon:

1) The measures to be proposed to the Reichstag, and the resolutions passed by the same.

2) The general administrative provisions and arrangements necessary for the execution of the imperial laws, so far as no other provision is made by law.

3) The defects which may be discovered in the execution of the imperial laws, or of the provisions and arrangements heretofore mentioned.

Each member of the Confederation shall have the right to make propositions and introduce motions, and it shall be the duty of the praesidium to submit them for deliberation.

Decision shall be reached by simple majority, with the exceptions provided for by Arts. 5, 37, and 78. Votes not represented or not instructed shall not be counted. In the case of a tie, the vote of the praesidium shall decide.

When legislative action is taken upon a subject which, according to the provisions of this constitution, does not concern the whole Empire, only the votes of those states of the Confederation interested in the matter in question shall be counted.

ART. 8. The Bundesrat shall appoint from its own members permanent committees:

1) On the army and the fortifications.
2) On marine affairs.
3) On customs duties and taxes.
4) On commerce and trade.
5) On railroads, posts, and telegraphs.

6) On judicial affairs.

7) On accounts.

In each of these committees there shall be representatives of at least four states of the Confederation, besides the praesidium, and each state shall be entitled to only one vote therein. In the committee on the army and fortifications Bavaria shall have a permanent seat; the remaining members of this committee, as well as the members of the committee on marine affairs, shall be appointed by the Emperor; the members of the other committees shall be elected by the Bundesrat. These committees shall be newly formed at each session of the Bundesrat, i. e., each year, and the retiring members shall be eligible for re-election.

A Committee on Foreign Affairs, over which Bavaria shall preside, shall also be appointed in the Bundesrat; it shall be composed of the plenipotentiaries of the kingdoms of Bavaria, Saxony, and Württemberg, and of two plenipotentiaries of other states of the Empire, who shall be elected annually by the Bundesrat.

The employees necessary for the conduct of their work shall be placed at the disposal of the committees.

ART. 9. Each member of the Bundesrat shall have the right to appear in the Reichstag, and must be heard there at any time he shall so request, in order to represent the views of his government, even when such views shall not have been adopted by the majority of the Bundesrat. No one shall at the same time be a member of the Bundesrat and of the Reichstag.

ART. 10. The Emperor shall afford the customary diplomatic protection to the members of the Bundesrat.

IV. THE PRESIDENCY

ART. 11. To the King of Prussia shall belong the presidency of the Confederation, and he shall have the title of German Emperor. It shall be the duty of the Emperor to represent the Empire among nations, to declare war and to

conclude peace in the name of the Empire, to enter into alliances and other treaties with foreign countries, to accredit ambassadors and to receive them.

For a declaration of war in the name of the Empire, the consent of the Bundesrat is required, unless an attack is made upon the federal territory or its coasts.

So far as treaties with foreign countries relate to matters which, according to Art. 4, are to be regulated by imperial legislation, the consent of the Bundesrat shall be required for their conclusion, and the approval of the Reichstag shall be necessary to render them valid.

ART. 12. The Emperor shall have the right to convene the Bundesrat and the Reichstag, and to open, adjourn, and close them.

ART. 13. The Bundesrat and the Reichstag shall be convened annually, and the Bundesrat may be called together for the preparation of business without the Reichstag; the latter, however, shall not be convened without the Bundesrat.

ART. 14. The Bundesrat shall be convened whenever a meeting is demanded by one-third of the total number of votes.

ART. 15. The Imperial Chancellor, to be appointed by the Emperor, shall preside in the Bundesrat, and supervise the conduct of its business.

The Imperial Chancellor shall have the right to delegate the power to represent him to any other member of the Bundesrat; this delegation shall be made in writing.

ART. 16. The necessary bills shall be laid before the Reichstag in the name of the Emperor, in accordance with the resolutions of the Bundesrat, and shall be advocated in the Reichstag by members of the Bundesrat, or by special commissioners appointed by the latter.

ART. 17. It shall be the duty of the Emperor to prepare and publish the laws of the Empire, and to supervise their execution. The decrees and ordinances of the Emperor shall be issued in the name of the Empire, and shall require for

their validity the countersignature of the Imperial Chancellor, who thereby assumes the responsibility for them.

ART. 18. The Emperor shall appoint imperial officials, cause them to take the oath to the Empire, and dismiss them when necessary.

Officials of any one of the states of the Confederation, who shall be appointed to any imperial office, shall enjoy, with reference to the Empire, the same rights as those to which they are entitled in their native state by virtue of their official position, provided that no other legislative provision shall have been made previous to their entrance into the service of the Empire.

ART. 19. If the states of the Confederation do not fulfil their constitutional duties, they may be compelled to do so by execution. This execution shall be decided upon by the Bundesrat, and carried out by the Emperor.

V. THE REICHSTAG

ART. 20. The members of the Reichstag shall be chosen in a general direct election and by secret ballot.

Until regulation by law, the power to make such regulation being reserved by sec. 5 of the Election Law of May 31, 1869, 48 deputies shall be elected in Bavaria, 17 in Württemberg, 14 in Baden, 6 in Hesse south of the River Main, and the total number shall consequently be 382.[5]

ART. 21. Government officials shall not require leave of absence in order to enter the Reichstag.

When a member of the Reichstag accepts a salaried office of the Empire, or a salaried office in one of the states of the Confederation, or accepts any office of the Empire or of a state involving higher rank or salary, he shall forfeit his seat

[5] Including, that is to say, those deputies returned by the states of the North German Confederation. By law of June 25, 1873, fifteen additional members are elected from Alsace-Lorraine. With certain minor exceptions every male German of the age of twenty five years may vote for members of and may be elected to the Reichstag.

and vote in the Reichstag, but may recover his place in the same by a new election.

ART. 22. The proceedings of the Reichstag shall be public.

No one shall be held responsible for truthful reports of the proceedings of the public sessions of the Reichstag.

ART. 23. The Reichstag shall have the right to propose laws within the competence of the Empire, and to refer petitions, addressed to it, to the Bundesrat or the chancellor of the Empire.

ART. 24. The Reichstag shall be elected for five years.[6] It may be dissolved during that time by a resolution of the Bundesrat, with the consent of the Emperor.

ART. 25. In case of a dissolution of the Reichstag, new elections shall take place within a period of sixty days, and the Reichstag shall be called together within a period of ninety days after its dissolution.

ART. 26. Without the consent of the Reichstag, an adjournment of that body shall not exceed the period of thirty days, and shall not be repeated during the same session.

ART. 27. The Reichstag shall examine into the legality of the election of its members and decide thereon. It shall regulate its own procedure, and its own discipline, through its order of business, and elect its president, vice-presidents, and secretaries.

ART. 28. The Reichstag shall take action by absolute majority. To render any action valid, the presence of a majority of the statutory number of members is required.[7]

ART. 29. The members of the Reichstag are the rep-

[6] Art. 24 amended, from three to five years, March 19, 1888.

[7] The second paragraph of this article was repealed by law of February 24, 1873. It read as follows: "For the decision of matters which, according to this constitution, do not concern the entire Empire, only such members shall vote as are elected from states whose interests are affected by the proposition."

resentatives of the people as a whole, and shall not be bound by orders or instructions.

ART. 30. No member of the Reichstag shall at any time suffer legal or disciplinary prosecution on account of his vote, or on account of utterances made while in the performance of his functions, or be held responsible in any other way outside of the Reichstag.

ART. 31. Without the consent of the Reichstag, no one of its members shall be tried or arrested during the session for any penal offense, unless he be taken in the commission of the offense, or during the course of the following day.

Like consent shall be required in the case of arrest for debt.

At the request of the Reichstag all criminal proceedings instituted against one of its members, and any detentions for judicial inquiry or in civil cases, shall be suspended during its session.

ART. 32. The members of the Reichstag as such shall receive no salaries. They shall receive an indemnification in accordance with the provisions of law.[8]

VI. CUSTOMS AND COMMERCE

ART. 33. Germany shall form one customs and commercial territory, having a common frontier for the collection of duties. Such parts of the territory as cannot, by reason of their situation, be suitably embraced within the customs frontier, shall be excluded.

All articles which are the subject of free traffic in one state of the Empire may be brought into any other state, and in the latter shall be subject only to such internal taxes as are imposed upon similar domestic productions.

[8] As altered May 21, 1906. Art. 32, as originally worded, forbade any compensation to members of the Reichstag. A law of May 21, 1906, provides that members of the Reichstag shall receive: (1) free transportation on the German railways during the sessions of the Reichstag and for eight days before the beginning of and eight days after the close of each session; and (2) a yearly remuneration of three thousand marks.

ART. 34. The Hanse cities, Bremen and Hamburg, together with a part of their own or of the surrounding territory suitable for such purpose, shall remain free ports outside of the common customs frontier, until they request admission within such frontier.

ART. 35. The Empire shall have the exclusive power to legislate concerning everything relating to the customs; concerning the taxation of salt and tobacco produced in the federal territory, and of domestic brandy and beer, and of sugar and syrup prepared from beets or other domestic products; concerning the mutual protection against fraud with reference to all taxes upon articles of consumption levied in the several states of the Empire; as well as concerning the measures which may be required in the territory, outside the customs boundaries, for the security of the common customs frontier.

In Bavaria, Württemberg, and Baden, the matter of taxing domestic brandy and beer is reserved to the legislation of the states. The states of the Confederation shall, however, endeavor to bring about uniform legislation regarding the taxation of these articles also.

ART. 36. The administration and collection of customs duties and of the taxes on articles of consumption (Art. 35) shall be left to each state of the Confederation within its own territory, so far as these functions have heretofore been exercised by each state.

The Emperor shall superintend the observance of legal methods by means of imperial officers whom he shall appoint, after consulting the committee of the Bundesrat on customs duties and taxes, to act in co-operation with the customs or tax officials and with the directive boards of the several states.

Reports made by these officers concerning defects in the administration of the joint legislation (Art. 35) shall be submitted to the Bundesrat for action.

ART. 37. In taking action upon the rules and regulations for the execution of the joint legislation (Art. 35), the vote

of the praesidium shall decide when it is cast in favor of maintaining the existing rule or regulation.

ART. 38. The revenues from customs and from the other taxes designated in Art. 35, so far as the latter are subject to imperial legislation, shall go to the treasury of the Empire.

Such revenues shall consist of the total receipts from the customs and excise taxes, after deducting therefrom:

1) Tax rebates and reductions in conformity with existing laws or general administrative regulations.

2) Reimbursements for taxes improperly collected.

3) The costs of collection and of administration, viz.:

a) In case of the customs, the costs which are required for the protection and collection of customs on the frontiers and in the frontier districts.

b) For the salt tax, the costs which are incurred for the salaries of the officers charged with the collection and control of this tax at the salt works.

c) For the taxes on beet sugar and on tobacco, the compensation which is to be allowed, according to the existing rules of the Bundesrat, to the several state governments for the cost of administering these taxes.

d) Fifteen per cent. of the total receipts from other taxes.

The territories situated outside of the common customs-frontier shall contribute to the expenses of the Empire by payment of a lump sum.

Bavaria, Württemberg, and Baden shall not share in the revenues which go into the treasury of the Empire, from duties on brandy and beer, nor in the corresponding portion of the aforesaid payments in lump sum.

[The provision of Art. 38, paragraph 2, number 3 *d*) of the imperial constitution is repealed, in so far as it relates to the tax on breweries. The compensation to be allowed to the states for the expense of collecting and administering the tax on breweries shall be fixed by the Bundesrat.[9]]

[9] Added by amendment of June 3, 1906.

ART. 39. The quarterly summaries made by the revenue officers of the federal states at the end of each quarter, and the final statement, made at the end of the year, after the closing of the accounts, of the receipts which have become due in the course of the quarter, or during the fiscal year, from customs and from taxes on consumption which, according to Art. 38, belong to the treasury of the Empire, shall be arranged by the administrative officers of the various states, after a preliminary audit, into general summaries, in which each tax shall be separately entered. These summaries shall be transmitted to the Committee of Accounts of the Bundesrat.

The latter, upon the basis of these summaries, shall fix provisionally every three months the amounts due to the imperial treasury from the treasury of each state, and it shall inform the Bundesrat and the states of the amounts so fixed; furthermore, it shall submit to the Bundesrat annually the final statement of these amounts with its remarks. The Bundesrat shall take action upon the determination of such amounts.

ART. 40. The terms of the Customs Union Treaty of July 8, 1867, shall remain in force, so far as they have not been altered by the provisions of this constitution, and so long as they are not altered in the manner designated in Arts. 7 or 78.

VII. RAILWAYS

ART. 41. Railways, which are considered necessary for the defense of Germany, or in the interest of general commerce, may, by force of imperial law, be constructed at the expense of the Empire, even against the opposition of the members of the Union through whose territory the railroads run, without prejudice, however, to the sovereign rights of the states; or private persons may be granted the right to construct railways, and receive the right of eminent domain.

Every existing railway is bound to permit new railroad lines to be connected with it, at the expense of the latter.

All laws which grant existing railway undertakings the right to prevent the building of parallel or competitive lines are hereby repealed throughout the Empire, without prejudice to rights already acquired. Such rights of prevention shall not be granted in future concessions.

ART. 42. The governments of the federal states bind themselves, in the interest of general commerce, to manage the German railways as one system, and for this purpose to have all new lines constructed and equipped according to a uniform plan.

ART. 43. Accordingly, as soon as possible, uniform arrangements as to operation shall be made, and especially shall uniform regulations be adopted for the police of railways. The Empire shall take care that the various railway administrations keep the roads at all times in such condition as is necessary for public security and furnish them with such equipment as the needs of traffic may require.

ART. 44. Railway administrations are bound to run as many passenger trains of suitable speed as may be required for through traffic, and for the establishment of harmony between time tables; also to make provision for such freight trains as may be necessary for the transport of goods, and to organize a system of through forwarding both in passenger and freight traffic, permitting rolling stock to go from one road to another for the usual remuneration.

ART. 45. The Empire shall have control of the tariff of charges. It shall especially exert itself to the end:

1) That uniform regulations as to operation be introduced as soon as possible on all German railway lines.

2) That the tariff be reduced and made uniform as far as possible, and particularly that in the long-distance transportation of coal, coke, wood, ores, stone, salt, pig iron, manure, and similar articles, a tariff be introduced suitably modified in the interests of agriculture and industry; and that the one-pfennig tariff be introduced as soon as practicable.

ART. 46. In case of public distress, especially in case of an extraordinary rise in the price of provisions, it shall be the duty of the railroads to adopt temporarily a low special tariff suited to the circumstances, to be fixed by the Emperor on motion of the competent committee of the Bundesrat, for the transport of grain, flour, legumes, and potatoes. This tariff shall, however, not be lower than the lowest existing rate for raw produce on the said line.

The foregoing provisions, and those of Arts. 42 to 45, shall not apply to Bavaria.

The imperial government, however, shall have the power, with respect to Bavaria also, to establish by means of legislation uniform standards for the construction and equipment of railways which may be of importance for the defense of the country.

ART. 47. The managers of all railways shall be required to obey, without hesitation, requisitions made by the authorities of the Empire for the use of their roads for the defense of Germany. In particular shall troops and all materials of war be forwarded at uniformly reduced rates.

VIII. POST AND TELEGRAPH

ART. 48. The postal and telegraph systems shall be organized and managed on a uniform plan, as state institutions throughout the German Empire.

The legislation of the Empire in regard to postal and telegraph affairs, provided for in Art. 4, shall not extend to those matters the control of which is left to governmental ordinance or administrative regulation, according to the principles which have prevailed in the administration of post and telegraph by the North German Confederation.

ART. 49. The receipts from post and telegraph throughout the Empire shall belong to a common fund. The expense shall be paid from the general receipts. The surplus shall go into the imperial treasury (Section XII).

ART. 50. The Emperor shall have the supreme supervision of the administration of post and telegraph. The officers appointed by him shall have the duty and the right to see to it that uniformity be established and maintained in the organization of the administration and in the conduct of business, as well as in the qualifications of employees.

The Emperor shall have the power to issue governmental instructions and general administrative regulations, and also the exclusive right to regulate the relations with the postal and telegraph systems of other countries.

It shall be the duty of all officers of the postal and telegraph administration to obey the orders of the Emperor. This obligation shall be assumed in the oath of office.

The appointment of such superior officers as shall be required for the administration of the post and telegraph in the various districts (such as directors, counselors, and superintendents), furthermore, the appointment of officers of the post and telegraph acting in the capacity of organs of the aforesaid authorities as supervisors or for other services in the several districts (such as inspectors or controllers), shall be made throughout the Empire by the Emperor, to whom such officers shall take the oath of office. The governments of the several states shall receive timely notice of the aforementioned appointments, as far as they may relate to their territories, so that they may confirm and publish them.

Other officers required in the administration of the post and telegraph, as well as all those employed for local and technical work, including the officials in the local offices, and so forth, shall be appointed by the governments of the respective states.

Where there is no independent state administration of post or telegraph, the terms of special treaties shall control.

ART. 51. In consideration of the differences which have heretofore existed in the net receipts of the state postal administrations of the several districts, and for the purpose of

securing a suitable equalization during the period of transition below named, the following procedure shall be observed in assigning the surplus of the postal administration for general imperial purposes (Art. 49):

From the postal surpluses which accumulated in the several postal districts during the five years from 1861 to 1865, a yearly average shall be computed, and the share which every separate postal district has had in the surplus resulting therefrom for the whole territory of the Empire, shall be expressed in a percentage.

In accordance with the ratio thus ascertained, the several states shall be credited on the account of their other contributions to the expenses of the Empire, with their quota accruing from the postal surplus in the Empire, for a period of eight years following their entrance into the postal administration of the Empire.

At the end of the said eight years the distinction shall cease, and any surplus from the postal administration shall go, without division, into the imperial treasury, according to the principle contained in Art. 49.

Of the quota of the postal surplus which accrues during the aforementioned period of eight years in favor of the Hanse cities one-half shall each year be placed at the disposal of the Emperor, for the purpose of providing for the establishment of the proper postal organizations in the Hanse cities.

ART. 52. The provisions of the foregoing Arts. 48 to 51 do not apply to Bavaria and Württemberg. In their place the following provisions shall be valid for these two states of the Empire:

The Empire alone shall have power to legislate upon the privileges of the post and telegraph, upon the legal relations of both institutions to the public, upon the franking privilege and the postal rates, excepting, however, the adoption of administrative regulations and of rates for the internal communication within Bavaria and Württemberg respectively; and,

under like limitations, upon the fixing of charges for telegraphic correspondence.

In the same manner, the Empire shall have the regulation of postal and telegraphic communication with foreign countries, excepting the immediate intercourse of Bavaria and Württemberg with neighboring states not belonging to the Empire, the regulation of which is subject to the provisions of Art. 49 of the postal treaty of November 23, 1867.

Bavaria and Württemberg shall not share in the postal and telegraphic receipts coming into the treasury of the Empire.

IX. MARINE AND NAVIGATION

ART. 53. The navy of the Empire shall be a united one, under the supreme command of the Emperor. The Emperor is charged with its organization and construction; he shall appoint the officers and employees of the navy, and they and the seamen shall take an oath of obedience to him.

The harbor of Kiel and the harbor of the Jade are imperial naval ports.

The expense required for the establishment and maintenance of the navy and of the institutions connected therewith shall be defrayed from the treasury of the Empire.

All seafaring men of the Empire, including machinists and artisans employed in ship-building, are exempt from service in the army, but are liable to service in the imperial navy.[10]

ART. 54. The merchant vessels of all states of the Union shall form a united mercantile marine.

The Empire shall determine the process for ascertaining the tonnage of sea-going vessels, shall regulate the issuing of tonnage-certificates and of ship-certificates, and shall fix the

[10] Paragraph 5 of Art. 53 was repealed by law of May 26, 1893; it read as follows: "The apportionment of requisitions to supply the ranks of the navy shall be made according to the actual seafaring population, and the number furnished in accordance herewith by each state shall be deducted from the number otherwise required for the army."

conditions upon which a license to command a sea-going vessel shall be granted.

The merchant vessels of all the federated states shall be admitted on equal footing to the harbors and all natural and artificial watercourses of the several states of the Union, and shall be accorded similar treatment therein. The fees which may be collected in harbors, from sea-going vessels or from their cargoes, for the use of marine institutions, shall not exceed the amount necessary for the maintenance and ordinary repair of these institutions.

On all natural watercourses taxes may only be levied for the use of special institutions which serve to facilitate commercial intercourse. These taxes as well as the charge for navigating such artificial channels as are the property of the state shall not exceed the amount required for the maintenance and ordinary repair of such institutions and establishments. These provisions shall apply to rafting, in so far as it is carried on along navigable watercourses.

The power to lay other or higher taxes upon foreign vessels or their cargoes than those which are paid by the vessels of the federal states or their cargoes shall belong only to the Empire and not to the separate states.

ART. 55. The flag of the naval and merchant marine is black, white, and red.

X. CONSULAR AFFAIRS

ART. 56. The Emperor shall have the supervision of all consular affairs of the German Empire, and he shall appoint consuls, after hearing the Committee of the Bundesrat on Trade and Commerce.

No new state consulates shall be established within the districts covered by German consuls. German consuls shall perform the functions of state consuls for the states of the Union not represented in their districts. All the state consulates now existing shall be abolished as soon as the organization of the German consulates shall be completed in such a

manner that the representation of the separate interests of all the federal states shall be recognized by the Bundesrat as satisfactorily secured by the German consulates.

XI. MILITARY AFFAIRS OF THE EMPIRE

ART. 57. Every German is liable to military duty, and in the discharge of this duty no substitute shall be accepted.

ART. 58. The costs and the burden of the entire military system of the Empire shall be borne equally by all the federal states and their subjects, so that neither special privileges nor burdens upon particular states or classes are in principle permissible. Where an equal distribution of the burdens cannot be effected *in natura* without prejudice to the public welfare, the equalization shall be effected by legislation in accordance with the principles of justice.

ART. 59. Every German capable of bearing arms shall belong for seven years to the standing army, as a rule from the end of his twentieth to the beginning of his twenty-eighth year; during the next five years he shall belong to the national guard (*Landwehr*) of first summons, and then to the national guard of second summons until the thirty-first day of March of the year in which he reaches the age of thirty-nine years.

During the period of service in the standing army the members of the cavalry and of the mounted field artillery are required to serve the first three years in unbroken active service; all other forces are required to give the first two years in active service.

As regards the emigration of men belonging to the reserve, only those provisions shall be in force which apply to the emigration of members of the national guard (*Landwehr*).[11]

ART. 60. The number of men in the German army in time of peace shall be fixed until the thirty-first day of December, 1871, at 1 per cent. of the population of 1867, and shall

[11] This article is given as amended by law of April 15, 1905. It was also altered by law of February 11, 1888.

be furnished by the several federal states in proportion to their population. After the above date the effective strength of the army in time of peace shall be fixed by imperial legislation.

ART. 61. After the publication of this constitution the entire Prussian system of military legislation shall be introduced without delay throughout the Empire, both the statutes themselves and the regulations, instructions, and ordinances issued for their execution, explanation, or completion; especially, the military penal code of April 3, 1845; the law of military penal procedure of April 3, 1845; the ordinance concerning the courts of honor, of July 20, 1843; the regulations with respect to recruiting, time of service, matters relating to quarters and subsistence, to the quartering of troops, to compensation for injury done to fields, to mobilization of troops, etc., in times of peace and war. The military ordinance relating to religious observances is, however, excepted.

When a uniform organization of the German army for war purposes shall have been established, a comprehensive military code for the Empire shall be submitted to the Reichstag and the Bundesrat for their action, in accordance with the constitution.

ART. 62. For the purpose of defraying the expenses of the whole German army, and of the institutions connected therewith, the sum of two hundred and twenty-five thalers for each man in the army on the peace-footing, according to Art. 60, shall be annually placed at the disposal of the Emperor until the thirty-first day of December, 1871 (see Section XII).

After the thirty-first day of December, 1871, the several states shall pay these contributions into the imperial treasury. Until it is altered by a law of the Empire, the strength of the army in time of peace, as temporarily fixed in Art. 60, shall be taken as a basis for calculating the amounts of such contributions.

The expenditure of these sums for the imperial army and its establishments shall be fixed by the budgetary law.

In determining the budget of military expenditure, the organization of the imperial army, legally established in accordance with this constitution, shall be taken as a basis.

ART. 63. The total land force of the Empire shall form one army, which shall be under the command of the Emperor, in war and in peace.

The regiments, etc., throughout the whole German army shall bear continuous numbers. As to the uniform, the primary colors and cut of the Prussian uniform shall be the standard. It is left to commanders of the several contingents to determine upon external marks of distinction (cockades, etc.).

It shall be the duty and the right of the Emperor to take care that throughout the German army all divisions be kept full and ready to take the field, and that uniformity be established and maintained in regard to organization and formation, equipment and command, in the training of the men, and in the qualifications of the officers. For this purpose the Emperor shall have authority to satisfy himself at any time, by inspection, of the condition of the several contingents, and to order the correction of defects disclosed by such inspection.

The Emperor shall determine the strength, composition, and division of the contingents of the imperial army, and also the organization of the national guard (*Landwehr*), and he shall have the right to determine the garrisons within the territory of the Union, as also to mobilize any portion of the imperial army.

In order to maintain the indispensable unity in the administration, care, arming, and equipment of all divisions of the German army, all orders relating to these matters hereafter issued to the Prussian army shall be communicated, for their proper observance, to the commanders of the other contingents, through the Committee on the Army and Fortifications provided for by Art. 8, No. 1.

ART. 64. All German troops are bound to render unconditional obedience to the commands of the Emperor. This obligation shall be included in the military oath.

The commander-in-chief of a contingent, as well as all officers commanding troops of more than one contingent, and all commanders of fortresses, shall be appointed by the Emperor. The officers appointed by the Emperor shall take the military oath to him. The appointment of generals, and of officers performing the duties of generals within a contingent, shall in every case be subject to the approval of the Emperor.

In the transfer of officers, with or without promotion, to positions which are to be filled by him in the service of the Empire, be it in the Prussian army or in other contingents, the Emperor shall have the right to select from the officers of all the contingents of the imperial army.

ART. 65. The right to construct fortresses within the federal territory shall belong to the Emperor, who shall ask in accordance with Section XII for the grant of the means required for that purpose, unless it has already been included in the regular appropriation.

ART. 66. In the absence of special conventions, the princes of the Confederation and the Senates shall appoint the officers of their respective contingents, subject to the restriction of Art. 64. They shall be the heads of all of the divisions of troops belonging to their territories, and shall enjoy the honors connected therewith. They shall have particularly the right to hold inspections at any time, and shall receive, besides the regular reports and announcements of changes to be made, timely information of all promotions and appointments concerning their respective contingents, in order to provide for the necessary publication of such information by state authority.

They shall also have the right to employ, for police purposes, not only their own troops, but all other divisions of the

imperial army which may be stationed in their respective territories.

ART. 67. Unexpended portions of the military appropriation shall under no circumstances fall to the share of a single government, but at all times to the imperial treasury.

ART. 68. The Emperor shall have the power, if public security within the federal territory is threatened, to declare martial law in any part of the Empire. Until the publication of a law regulating the occasions, the form of announcement, and the effects of such a declaration, the provisions of the Prussian law of June 4, 1851, shall be in force.

FINAL PROVISION OF SECTION XI

The provisions contained in this section shall be applied in Bavaria, in accordance with the more detailed provisions of the treaty of alliance of November 23, 1870, under III, sec. 5; in Württemberg, in accordance with the more detailed provisions of the military convention of November 21–25, 1870.

XII. FINANCES OF THE EMPIRE

ART. 69. All receipts and expenditures of the Empire shall be estimated for each year, and included in the budget. The latter shall be fixed by law before the beginning of the fiscal year, in accordance with the following principles:

ART. 70. For the defrayal of all common expenses there shall serve first of all the joint revenues derived from customs duties, from common taxes, from the railway, postal, and telegraph systems, and from the other branches of the administration. In so far as the expenditures are not covered by such receipts, they shall be met by contributions from the several states of the Confederation in proportion to their population, such contributions to be fixed by the Imperial Chancellor, with reference to the total amount established by the budget. In so far as these contributions are not used, they shall be repaid to the states at the end of the year, in propor-

tion as the other regular receipts of the Empire exceed its needs.

Any surpluses from preceding years shall be used, so far as the imperial budgetary law does not otherwise provide, for defraying the joint extraordinary expenses.[12]

ART. 71. The general appropriations shall, as a rule, be granted for one year; they may, however, in special cases, be granted for a longer period.

During the period of transition fixed by Art. 60, the properly classified, financial estimate of the expenditures of the army shall be laid before the Bundesrat and the Reichstag merely for their information.

ART. 72. For the purpose of discharge an annual report of the expenditure of all the revenues of the Empire shall be presented, through the Imperial Chancellor, to the Bundesrat and the Reichstag, for their approval.

ART. 73. In cases of extraordinary need, a loan may be contracted, or a guaranty assumed as a charge upon the Empire, by means of imperial legislation.

FINAL PROVISION OF SECTION XII

Arts. 69 and 71 shall apply to expenditures for the Bavarian army only according to the provisions of the treaty of November 23, 1870, mentioned in the final provision of Section XI; and Art. 72 applies only to the extent that the Bundesrat and the Reichstag shall be informed that the sum necessary for the Bavarian army has been assigned to Bavaria.

XIII. SETTLEMENT OF DISPUTES AND PENAL PROVISIONS

ART. 74. Every attempt against the existence, the integrity, the security, or the constitution of the German Empire; finally, any offense committed against the Bundesrat, Reichstag, a member of the Bundesrat or of the Reichstag, an authority or a public officer of the Empire, while in the execu-

[12] As amended May 14, 1904.

tion of their duty, or with reference to their official position, by word, writing, printing, drawing, pictorial or other representations, shall be judged and punished in the several states of the Empire in accordance with the laws therein existing or which may hereafter be enacted, by which provision is made for the trial of similar offenses against any one of the states of the Empire, its constitution, legislature, or estates, the members of its legislature or its estates, authorities, or officers.

ART. 75. For those offenses against the German Empire, specified in Art. 74, which, if committed against one of the states of the Empire, would be considered high treason, the Superior Court of Appeals of the three free Hanse cities, at Lübeck, shall be the competent deciding tribunal in the first and last resort.

More definite provisions as to the competency and the procedure of the Superior Court of Appeals shall be made by imperial legislation. Until the passage of an imperial law, the existing jurisdiction of the courts in the respective states, and the provisions relative to the procedure of these courts shall remain as at present.

ART. 76. Disputes between the several states of the Union, so far as they do not relate to matters of private law, and are therefore to be decided by the competent judicial authorities, shall be adjusted by the Bundesrat, at the request of one of the parties.

In disputes relating to constitutional matters in those states of the Union whose constitution does not designate an authority for the settlement of such differences, the Bundesrat shall, at the request of one of the parties, effect an amicable adjustment, and if this cannot be done, the matter shall be settled by imperial law.

ART. 77. If justice is denied in one of the states of the Union, and sufficient relief cannot be procured by legal measures, it shall be the duty of the Bundesrat to receive substantiated complaints concerning denial or restriction of

justice, which shall be proven according to the constitution and the existing laws of the respective states of the Union, and thereupon to obtain judicial relief from the state government which shall have given occasion to the complaint.

XIV. AMENDMENTS

ART. 78. Amendments of the constitution shall be made by legislative enactment. They shall be considered as rejected when fourteen votes are cast against them in the Bundesrat.

The provisions of the constitution of the Empire, by which certain rights are secured to particular states of the Union in their relation to the whole, may be amended only with the consent of the states affected.

321
69

13500

NORTH CENTRAL COLLEGE
342.01D66M
C001
MODERN CONSTITUTIONS CHICAGO
3 2611 00027636 6